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School children's artwork is used to decorate the front cover and blank filler pages of the *Texas Register*. Teachers throughout the state submit the drawings for students in grades K-12. The drawings dress up the otherwise gray pages of the *Texas Register* and introduce students to this obscure but important facet of state government.

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Open Meetings

Statewide agencies and regional agencies that extend into four or more counties post meeting notices with the Secretary of State.

Meeting agendas are available on the *Texas Register's* Internet site:
<http://www.sos.state.tx.us/open/index.shtml>

Members of the public also may view these notices during regular office hours from a computer terminal in the lobby of the James Earl Rudder Building, 1019 Brazos (corner of 11th Street and Brazos) Austin, Texas. To request a copy by telephone, please call 512-463-5561. Or request a copy by email: register@sos.state.tx.us

For items ***not*** available here, contact the agency directly. Items not found here:

- minutes of meetings
- agendas for local government bodies and regional agencies that extend into fewer than four counties
- legislative meetings not subject to the open meetings law

The Office of the Attorney General offers information about the open meetings law, including Frequently Asked Questions, the *Open Meetings Act Handbook*, and Open Meetings Opinions.

<http://www.oag.state.tx.us/opinopen/opengovt.shtml>

The Attorney General's Open Government Hotline is 512-478-OPEN (478-6736) or toll-free at (877) OPEN TEX (673-6839).

Additional information about state government may be found here:
<http://www.state.tx.us/>

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Meeting Accessibility. Under the Americans with Disabilities Act, an individual with a disability must have equal opportunity for effective communication and participation in public meetings. Upon request, agencies must provide auxiliary aids and services, such as interpreters for the deaf and hearing impaired, readers, large print or Braille documents. In determining type of auxiliary aid or service, agencies must give primary consideration to the individual's request. Those requesting auxiliary aids or services should notify the contact person listed on the meeting notice several days before the meeting by mail, telephone, or RELAY Texas. TTY: 7-1-1.

THE GOVERNOR

As required by Government Code, §2002.011(4), the *Texas Register* publishes executive orders issued by the Governor of Texas. Appointments and proclamations are also published. Appointments are published in chronological order. Additional information on documents submitted for publication by the Governor's Office can be obtained by calling (512) 463-1828.

Appointments

Appointments for September 30, 2009

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2015, Martha Doty Freeman of Westlake Hills (reappointed).

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2015, Larry Gene Holt of College Station (reappointed).

Appointed to the Texas State Library and Archives Commission for a term to expire September 28, 2015, Sandra J. Pickett of Liberty (reappointed).

Appointed to the Texas Poet Laureate, State Musician and State Artists Committee, effective October 1, 2009, for a term to expire October 1, 2011, Rita Esther Baca of El Paso (replacing Liza Lewis of San Antonio whose term expired).

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2011, James R. Campbell, Jr. of Sachse.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2011, William Marvin Rush of Seguin.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2011, John H. Walker, III of Houston.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2013, Clifford E. Butler of Mount Pleasant.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2013, Ramsay H. Gillman of Houston.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2013, Cheryl E. Johnson of Friendswood.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2015, Janet Marzett of Keller.

Appointed to the Texas Department of Motor Vehicles Board, pursuant to HB 3097, 81st Legislature, Regular Session, for a term to expire February 1, 2015, Victor Rodriguez of McAllen.

Appointed to the Texas Forensic Science Commission for a term to expire September 1, 2011, John M. Bradley of Georgetown (replacing Alan Levy of Fort Worth whose term expired). Mr. Bradley will serve as presiding officer of the commission.

Appointed to the Texas Forensic Science Commission for a term to expire September 1, 2011, Norma Jean Farley of Harlingen (replacing Aliece Watts of Burleson whose term expired).

Rick Perry, Governor

TRD-200904481



THE ATTORNEY GENERAL

The *Texas Register* publishes summaries of the following:
Requests for Opinions, Opinions, Open Records Decisions.

An index to the full text of these documents is available from
the Attorney General's Internet site <http://www.oag.state.tx.us>.

Telephone: 512-936-1730. For information about pending requests for opinions, telephone 512-463-2110.

An Attorney General Opinion is a written interpretation of existing law. The Attorney General writes opinions as part of his responsibility to act as legal counsel for the State of Texas. Opinions are written only at the request of certain state officials. The Texas Government Code indicates to whom the Attorney General may provide a legal opinion. He may not write legal opinions for private individuals or for any officials other than those specified by statute. (Listing of authorized requestors: <http://www.oag.state.tx.us/opinopen/opinhome.shtml>.)

Request for Opinions

RQ-0826-GA

Requestor:

The Honorable Burt R. Solomons

Chair, Committee on State Affairs

Texas House of Representatives

P.O. Box 2910

Austin, Texas 78768-2910

Re: Whether the Governor is required to appoint a judge to the newly created 431st District Court in Denton County (RQ-0826-GA)

Briefs requested by November 2, 2009

RQ-0827-GA

Requestor:

The Honorable Byron Cook

Chair, Committee on Environmental Regulation

Texas House of Representatives

P.O. Box 2910

Austin, Texas 78768-2910

Re: Proper rendition of improvements to real property under section 25.08, Tax Code (RQ-0827-GA)

Briefs requested by November 4, 2009

For further information, please access the website at www.oag.state.tx.us or call the Opinion Committee at (512) 463-2110.

TRD-200904499

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: October 7, 2009

◆ ◆ ◆

EMERGENCY RULES

Emergency Rules include new rules, amendments to existing rules, and the repeals of existing rules. A state agency may adopt an emergency rule without prior notice or hearing if the agency finds that an imminent peril to the public health, safety, or welfare, or a requirement of state or federal law, requires adoption of a rule on fewer than 30 days' notice. An emergency rule may be effective for not longer than 120 days and may be renewed once for not longer than 60 days (Government Code, §2001.034).

TITLE 22. EXAMINING BOARDS

PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER E. REQUIREMENTS FOR LICENSURE

22 TAC §535.51

The Texas Real Estate Commission is renewing the effectiveness of the emergency adoption of the amendment to §535.51, for a 33-day period. The text of the amended section was originally published in the June 12, 2009, issue of the *Texas Register* (34 TexReg 3579).

Filed with the Office of the Secretary of State on September 28, 2009.

TRD-200904392

Devon V. Bijansky

Assistant General Counsel

Texas Real Estate Commission

Original Effective Date: June 2, 2009

Expiration Date: November 1, 2009

For further information, please call: (512) 465-3926

◆ ◆ ◆

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 1. ADMINISTRATION

PART 4. OFFICE OF THE SECRETARY OF STATE

CHAPTER 87. NOTARY PUBLIC

The Office of the Secretary of State proposes to reorganize Chapter 87, concerning notaries public, by proposing the repeal of 1 TAC §§87.1, 87.4, 87.22, 87.23, 87.25, 87.41 - 87.50, 87.52, 87.54, and 87.60 and the concurrent proposal of new §§87.1 - 87.6, 87.10, 87.11, 87.20 - 87.25, 87.30, 87.40 - 87.44, 87.50, 87.60 - 87.62, and 87.70.

The proposed changes to Chapter 87 include the following general changes: reorganization of the rules, updates to the language based on statutory revisions, reference to the secretary of state's website, removal of redundant and unnecessary repetition of provisions contained in statute or forms, and clarification of certain procedures.

In addition to the general changes above, the following specific changes are proposed:

1. Section 87.2 of the proposed rules sets forth the eligibility requirements for a Texas notary public. In response to Texas Attorney General Opinion GA-0733, the rejection of an application or revocation of a commission for a final conviction for a crime involving moral turpitude has been changed from discretionary to mandatory.
2. Section 87.6 of the proposed rules set forth the procedure for renewing a commission and clarifies that renewals are subject to the same eligibility criteria as initial applicants.
3. Section 87.43 of the existing rules will be repealed and replaced with §87.11 of the proposed rules. Good cause is amended as follows: to include ineligibility due to a final felony conviction in an effort to be consistent in the treatment of felonies and crimes involving moral turpitude; to clarify that a final conviction for a crime involving moral turpitude makes an individual ineligible to hold office as a notary public in accordance with Tex. Atty Gen. Op. GA-0733; and to include a failure to respond to a request for public information in accordance with proposed rules §87.42 and §87.43.
4. Section 87.30 of the proposed rules sets forth the instances when a notary may refuse a request to perform notarial services. This rule is proposed in an effort to provide guidance to notaries on an issue that is not addressed in Chapter 406 of the Texas Government Code.
5. Section 87.41 of the proposed rules is being added to provide guidance to notaries that want to maintain the notary record book

electronically in accordance with §406.016 of the Texas Government Code.

6. Section 87.42 of the proposed rules is being added to provide guidance on requirements of §406.014(b)(c) of the Texas Government Code to provide copies of the notary record book and proposed §87.40 (which is replacing existing §87.60) relating to personal information in the notary book. Section 87.43 sets forth the possible disciplinary repercussions for failure to comply with the public information requirements.

7. Section 87.44 of the proposed rules is being added to provide guidance with respect to records retention requirements for notaries public. The proposed retention schedule is based on the retention requirements for business records in §72.002 of the Texas Business and Commerce Code.

8. Section 87.50 of the proposed rules clarifies the process for changing the address of record with the secretary of state pursuant to §406.019 of the Texas Government Code, sets forth the possible disciplinary repercussions for failure to comply with the change of address requirement, and clarifies the process when a commissioned notary moves out of state.

9. Section 87.60 of the proposed rules is being added to provide guidance on the new electronic submission of notary applications and bond process that was implemented by the secretary of state in 2009.

10. Section 87.70 of the proposed rules is being added to provide guidance on the appointment of qualified escrow officers living in adjacent states as Texas notaries public, pursuant to H.B. 652, 81st Leg., eff. Sept. 1, 2009.

11. Sections 87.50 - 87.54 of the existing rules are being repealed and will not be replaced. The authority of a notary to issue a subpoena is not found in the Texas Government Code and therefore it was determined that Chapter 87 was not the appropriate place for rules regarding this particular authority.

Fiscal Note

Briana Godbey, staff attorney, Business and Public Filings Division, has determined that for each year of the first five years that the sections proposed to be repealed and replaced will be in effect there will be no fiscal implications for state or local government as a result of enforcing or administering the sections as proposed.

Public Benefit Cost Note

Ms. Godbey has also determined that for each year of the first five years that the sections proposed to be repealed and replaced will be in effect the public benefit will be increased guidance as to the duties of a notary public and a clarification of the processes and procedures of the Office of the Secretary of

State (hereinafter the "agency") in commissioning and regulating Texas notaries public.

Pursuant to House Bill (HB) 3430, 80th Leg. (2007), a state agency is required to determine whether proposed rules may have a potential adverse economic impact on small and micro businesses. The majority of the proposed rules are not anticipated to modify any existing processes or procedures and do not raise costs associated with filing fees to become a notary or to maintain a commission. The agency's proposed rule §87.2, relating to the eligibility of notaries public, is the only rule anticipated to present any change in policy or procedure on behalf of notaries or the agency.

Pursuant to Texas Attorney General Opinion GA-0733, issued July 23, 2009, the eligibility requirements in §406.004 and §406.009 of the Texas Government Code were clarified resulting in a mandatory rejection of applicants with final convictions for crimes involving moral turpitude, whereas prior to the issuance of GA-0733, the agency exercised discretion to determine whether an applicant with a final conviction for a crime involving moral turpitude should be commissioned. During the 2009 fiscal year lasting from September 1, 2008 - August 31, 2009, there were 112,224 notaries commissioned. Of those 112,224 commissioned notaries, 48 had been convicted of a misdemeanor crime involving moral turpitude. According to these statistics, the number of applicants that would be affected by the change in eligibility requirements is 0.0004%.

According to the North American Industrial Classification System (NAICS), notary services are classified as 541199 (legal services). The information on the website for the Texas Comptroller of Public Accounts indicates that there are 12,480 small businesses falling within that category. If we assume that each one of the small and micro businesses that fall within class 541199 provide notarial services, then the expected number of small or micro businesses to be effected by proposed rule §87.2 is less than 5. However, it is difficult to determine the number, if any, of these small businesses that will actually be effected by the mandatory rejection of applicants with convictions for crimes involving moral turpitude. The agency commissions individuals to serve as public servants in the office of notary public, and does not regulate business entities. Thus, the only adverse consequences foreseeable by the agency to a business would result in the possible inability of a particular employee to provide notarial services. However, there are over 400,000 notaries currently commissioned in this state and no specialized skills or training are required to be commissioned as a Texas notary public. Therefore, finding an individual or another employee to provide these services should not be overly burdensome. It should also be noted that preventing a notary that has been convicted of a crime involving moral turpitude from serving as a notary would increase the public's confidence in the office, and thus, is in the public interest. Therefore, based on the minute percentage of applicants effected by the mandatory rejection of applicants with a conviction for a crime involving moral turpitude, the relative ease of finding someone to perform notarial services or to become commissioned as a notary public, and the public interest served by preventing notaries with a disqualifying conviction from serving as a notary public, any potential adverse economic impact on small and micro businesses is expected to be de minimis.

Under §2006.002(c-1), Texas Government Code, an agency is only required to consider alternative regulatory methods if these alternatives would be consistent with the health, safety, environ-

mental and economic welfare of the state. Proposed rule §87.2 is made in accordance with legislative mandate and therefore any variance would not be consistent with the public interest and welfare and thus no alternative methods have been considered.

Comments

Comments on the sections proposed to be repealed and replaced may be submitted in writing to: Briana Godbey, P.O. Box 13697, Austin, Texas 78711-3697. Comments must be received not later than 12:00 noon, November 16, 2009.

SUBCHAPTER A. NOTARY PUBLIC QUALIFICATIONS

1 TAC §§87.1, 87.4, 87.22, 87.23, 87.25

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeals are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the repeals is Chapter 406 of the Texas Government Code.

§87.1. *Application for a Commission as a Notary Public.*

§87.4. *Issuance of the Notary Public Commission by the Secretary of State.*

§87.22. *Completion and Execution of the Bond and Statement of Officer.*

§87.23. *Review of the Bond and Statement of Officer.*

§87.25. *Qualification by an Officer or Employee of a State Agency who does not furnish a Notary Public Bond.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904455

Lorna Wassdorf

Director, Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER B. REJECTION AND REVOCATION

1 TAC §§87.41 - 87.43

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeals are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the repeals is Chapter 406 of the Texas Government Code.

§87.41. *Rejection of Application and Revocation of Commission.*

§87.42. *Eligibility for Appointment or To Hold the Office of Notary Public.*

§87.43. *Good Cause.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904456

Lorna Wassdorf

Director, Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER C. ADMINISTRATIVE ACTION

1 TAC §§87.44 - 87.49

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeals are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the repeals is Chapter 406 of the Texas Government Code.

§87.44. *Qualification under New Name.*

§87.45. *Rejection.*

§87.46. *Issuance of Amended Commission.*

§87.47. *Complaint Procedures.*

§87.48. *Other Disciplinary Action.*

§87.49. *Time for Action.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904457

Lorna Wassdorf

Director, Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER D. SUBPOENAS

1 TAC §§87.50, 87.52, 87.54

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeals are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the repeals is Chapter 406 of the Texas Government Code.

§87.50. *Authority.*

§87.52. *Issuing.*

§87.54. *Governed by Other Law.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904458

Lorna Wassdorf

Director, Business and Public Filings

Office of the Secretary of State

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 463-5562



SUBCHAPTER E. NOTARY RECORDS

1 TAC §87.60

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the Office of the Secretary of State, Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

Statutory Authority

The repeal is proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the repeal is Chapter 406 of the Texas Government Code.

§87.60. *Prohibition Against Recording Personal Information.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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**SUBCHAPTER A. NOTARY PUBLIC
QUALIFICATIONS**

1 TAC §§87.1 - 87.6

Statutory Authority

The new sections are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new sections is Chapter 406 of the Texas Government Code.

§87.1. Application for a Commission as a Notary Public.

(a) The secretary of state appoints notaries public under the provisions of article IV, §26 of the Texas Constitution and Chapter 406, Government Code.

(b) All persons applying for a notary public commission shall use the application form prescribed by the secretary of state.

(c) The application form is available on the secretary of state web site at www.sos.state.tx.us/statdoc/statforms or may be obtained by writing the Office of the Secretary of State, Notary Public Unit, P.O. Box 13375, Austin, Texas 78711. See form 2301. The application form for a notary who is an officer or employee of a state agency is form 2301-NB, available on the web site of the State Office of Risk Management at www.sorm.state.tx.us.

§87.2. Eligibility to Hold the Office of Notary Public.

(a) Subject to the provision in subsection (b) of this section and §87.70 of this title (relating to Qualification by an Escrow Officer Residing in an Adjacent State), a person is eligible to be a notary public if the person is 18 years of age or older and a resident of Texas.

(b) A person is not eligible to be a notary public if the person was convicted of a crime involving moral turpitude or a felony and the conviction has become final, has not been set aside, and no pardon or certificate of restoration of citizenship rights has been granted.

(c) If an applicant is not eligible, the secretary of state will reject the application.

(d) If the secretary of state discovers, at any time, that an applicant or commissioned notary public is not eligible, the secretary of state will reject the notary application or revoke the notary commission.

§87.3. Issuance of the Notary Public Commission by the Secretary of State.

(a) The secretary of state shall commission a qualified applicant. An applicant is qualified if:

(1) the applicant meets the eligibility requirements stated in §87.2 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application;
(B) the bond as provided in §406.010, Government Code, if required;

(C) the statement of officer and oath of office required by article XVI, §1 Texas Constitution;

(D) payment to the secretary of state of fees required by §406.007, Government Code; and

(3) no good cause exists for rejecting the application.

(b) The secretary of state shall not commission an applicant if the applicant had a prior application rejected or a commission revoked for a finding of ineligibility or good cause and the reason for ineligibility or grounds for good cause continues to exist.

(c) When all conditions for qualification have been met, the application shall be approved, stamped "qualified" with the date of qualification, and filed. The secretary of state shall cause a commission to be issued and sent to each notary public who has qualified. A commission is effective as of the date of qualification.

(d) If an application is not properly completed and executed, the qualification of the applicant will be delayed. The secretary of state shall notify the applicant in writing stating the reason or reasons why the commission was not issued, and the steps which must be taken to correct the errors or omissions. The applicant shall have 30 days from the date of the notice to respond; otherwise, the application will be considered abandoned and all fees deposited forfeited.

§87.4. Qualification by an Officer or Employee of a State Agency Who Does Not Furnish a Notary Public Bond.

(a) An applicant who is an officer or employee of a state agency is not required to provide a surety bond. For the purpose of this chapter, "state agency" has the meaning assigned by §2052.101, Government Code.

(b) An applicant who is an officer or employee of a state agency and does not provide a surety bond must complete the notary public application entitled "Application for Appointment as a Notary Public Without Bond" (Form 2301-NB).

(c) The State Agency employing the applicant must submit the completed application to the State Office of Risk Management.

(d) The State Office of Risk Management shall complete the verification certificate on the application and forward the completed application to the Office of the Secretary of State for processing.

(e) The secretary of state shall commission the applicant if:

(1) the applicant meets the eligibility requirements stated in §87.2 of this title (relating to Eligibility to Hold the Office of Notary Public);

(2) the applicant submits:

(A) a properly completed and executed application verified by the State Office of Risk Management;

(B) the statement of officer and oath of office required by article XVI, §1 Texas Constitution;

(C) the payment of fees required by §406.007(a)(2) and §406.007(b), Government Code; and

(3) no good cause exists for rejecting the application.

§87.5. Change in Employment Status by an Officer or Employee of a State Agency Who Has Qualified Without a Surety Bond.

(a) If a notary public who has qualified without a surety bond transfers to another state agency, the agency to which the notary pub-

lic transfers shall notify the State Office of Risk Management and the Office of the Secretary of State of the transfer.

(b) If a notary public terminates state employment, the notary public shall:

(1) voluntarily surrender the notary public commission;

(2) purchase and provide evidence to the secretary of state of the purchase of a notary public bond for the time period remaining on the notary's current term of office; or

(3) apply for a new term of office, provide a notary public bond, and pay the applicable fees.

(c) Failure to take one of the actions set forth in subsection (b) of this section within 30 days of termination of state employment is good cause for revocation of the notary public's commission.

§87.6. Renewal of Commission.

(a) A notary may renew the commission by filing an application for renewal in the same manner and on the same form as if the notary was filing an original application for commission. The secretary of state will accept applications for renewal not sooner than 90 days before the expiration of the notary public's current commission. The renewal must be received by the secretary of state no later than the expiration date of the notary public's current commission.

(b) The secretary of state shall determine eligibility for renewals according to the same standards as initial applicants, in accordance with §87.2 of this title (relating to Eligibility to Hold the Office of Notary Public) and §406.004, Government Code. The secretary of state is not bound by prior determinations of eligibility.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER B. REJECTION AND REVOCATION

1 TAC §87.10, §87.11

Statutory Authority

The new sections are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new sections is Chapter 406 of the Texas Government Code.

§87.10. Rejection of Application and Revocation of Commission.

The secretary of state shall, for ineligibility or good cause, reject any application, revoke the commission of any notary public, or take other disciplinary action, as outlined in §87.24 of this title (relating to Disciplinary Action), against a notary public as the secretary of state deems

appropriate. Rejection, revocation, and disciplinary proceedings will be held pursuant to the right of notice, hearing, and adjudication as set out in the rules of practice and procedure before the Office of the Secretary of State, the rules of the State Office of Administrative Hearings and the Administrative Procedure Act, Government Code, §§2001.001 - 2001.902. Any party to a contested case has the right to be represented by legal counsel. Such action will be subject to the right of appeal to a district court of Travis County.

§87.11. Good Cause.

(a) Good cause may include the following:

(1) ineligibility due to a final felony conviction;

(2) ineligibility due to a final conviction for a crime involving moral turpitude;

(3) a false statement knowingly made in a notary public application;

(4) a final conviction for the violation of any law concerning the regulation of the conduct of notaries public in this state or any other state;

(5) use of the phrase "notario" or "notario publico" in connection with advertising or offering the services of a notary public;

(6) false representation as an attorney as specified in §406.017, Government Code;

(7) a failure to fully and faithfully discharge any of the duties or responsibilities required of a notary public;

(8) the unauthorized practice of law;

(9) a failure to utilize a correct notary seal as described in §406.013, Government Code;

(10) a failure to administer an oath or affirmation as required by law;

(11) the collection of a fee in excess of the fees authorized by §406.024, Government Code;

(12) the execution of any certificate as a notary public containing a statement known to the notary public to be false;

(13) a failure to complete the notarial certificate at the time the notary public's signature and seal are affixed to the document;

(14) the advertising or holding out in any manner that the notary public is an immigration specialist, immigration consultant, or any other title or description reflecting an expertise in immigration matters;

(15) the use of false or misleading advertising of either an oral or written nature, whereby the notary public has represented or indicated that he or she has duties, rights, powers, or privileges that are not possessed by law;

(16) performing a notarization when the purported signer did not personally appear before the notary at the time the notarization is executed;

(17) previous disciplinary action against the notary public in accordance with these sections;

(18) a failure to comply with, or violation of, a previous disciplinary action taken pursuant to §87.24 of this title (relating to Disciplinary Action); and

(19) a failure to respond to a request for public information.

(b) A crime involving moral turpitude means the commission of a crime involving dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflects adversely on the applicant's honesty, trustworthiness, or fitness as a notary public, which may include, but not be limited to:

(1) Class A and B type misdemeanors; and

(2) felony convictions which have not been set aside, or for which no pardon or certificate of restoration of citizenship rights have been granted.

(c) Final Class C type misdemeanor convictions shall not be considered in determining good cause.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER C. ADMINISTRATIVE ACTION

1 TAC §§87.20 - 87.25

Statutory Authority

The new sections are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new sections is Chapter 406 of the Texas Government Code.

§87.20. Qualification Under New Name.

During the four-year term of office, a notary public may change the name on the notary commission by submitting the following to the secretary of state:

(1) an Application for Change of Name as a Texas Notary Public (Form 2305 available on the secretary of state web site at www.sos.state.tx.us/statdoc/statforms);

(2) a rider or endorsement to the bond on file with the secretary of state from the surety company or its agent or representative specifying the change of name;

(3) the current certificate of commission or a signed and notarized statement that the notary public will perform all future notarial acts under the name specified on the amended commission; and

(4) the statutory fees for the issuance of a commission and the filing of a bond.

§87.21. Rejection of Change of Name.

If the submission of the change of name does not comply with §87.20 of this title (relating to Qualification Under New Name), the secretary of state shall notify the notary public in writing of any deficiency. The notary public shall have 30 days from the date of the notice to respond. If no response is received within that time period, the request for the

change of name will be considered abandoned and all fees paid will be forfeited.

§87.22. Issuance of Amended Commission.

If the submission of the change of name complies with §87.20 of this title (relating to Qualification Under New Name), the secretary of state shall issue an amended commission to the notary public in the name requested. Upon issuance of the amended commission, the notary public must perform all notarial acts using the name on the amended commission.

§87.23. Complaint Procedures.

(a) A person harmed by the actions of a notary public may file a complaint with the secretary of state. The complaint shall be filed on the form prescribed by the secretary of state for such purposes, shall be signed and verified by the person alleging misconduct on the part of the notary public, shall include copies of the notarized documents that are the subject of the complaint, and shall substantially comply with the requirements set forth on the prescribed form.

(b) The secretary of state may determine that the allegations in the complaint are not sufficient to warrant formal disciplinary action. In such case, the secretary of state may:

(1) take no action on the complaint;

(2) informally advise the notary public of the appropriate conduct and the applicable statutes and rules governing the conduct; or

(3) request further information from the complainant or the notary prior to taking action.

(c) If the secretary of state determines that the complaint alleges sufficient facts to constitute good cause for disciplinary action against the notary public, the secretary of state shall send a copy of the complaint to the notary public with a request to the notary to respond to the statements in the complaint.

(d) The notary public must respond to the complaint in writing. The response must:

(1) specify any disputed facts and provide such additional information as the notary public shall desire;

(2) be signed and sworn to by the notary before a person authorized to administer oaths;

(3) include copies of the pages of the notary record book referencing the notarization that is the subject of the complaint; and

(4) be received by the secretary of state within 20 days of mailing of the copy of the complaint to the notary public.

(e) The secretary of state shall review the response and determine whether further administrative action is appropriate. If the secretary determines that no further action is appropriate, the secretary shall notify the notary public and the complainant of the determination in writing.

(f) If the secretary determines that further administrative action is appropriate, the secretary shall initiate a contested case under the rules of practice and procedure before the Office of the Secretary of State.

§87.24. Disciplinary Action.

(a) The secretary of state has discretion to determine that the conduct that forms the basis of a complaint against a notary public does not warrant disciplinary action against the notary public and take no further action on the complaint. If the secretary of state determines that disciplinary action should be taken the secretary of state may pursue the following disciplinary actions:

- (1) an official reprimand to the notary public; or
- (2) an agreement by the notary to:
 - (A) not engage in any further misconduct;
 - (B) to voluntarily surrender the notary public commission;
 - (C) to accept a suspension of the notary public commission for a set period of time;
 - (D) to complete a course of study relating to the powers, duties, and responsibilities of a notary public;
 - (E) not seek renewal of a notary public commission for a specified period of time; or
 - (F) to take such other action as the secretary deems appropriate; or
- (3) revocation of the notary commission.

(b) If no agreement can be reached, before taking action to suspend or revoke the notary public commission, the secretary of state shall give written notice to the notary of a right to a hearing in accordance with the rules of practice and procedure before the secretary of state.

(c) It is within the secretary of state's discretion to determine that no action should be taken or to enter into an agreement with the notary regarding the appropriate action. The secretary of state shall close the notary complaint file upon a determination that no further action is necessary or conclusion of an agreement with the notary. After the notary complaint file is closed, the secretary of state will take no further action on the complaint and will not accept an additional complaint with the same or substantially same allegations.

§87.25. Time for Action.

The secretary of state may take disciplinary action for an act or omission which occurred during a prior term of office.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER D. REFUSAL TO PERFORM NOTARIAL SERVICES

1 TAC §87.30

Statutory Authority

The new section is proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new section is Chapter 406 of the Texas Government Code.

§87.30. Refusal of Requests for Notarial Services.

(a) A notary is authorized to refuse to perform a notarial act if:

- (1) the notary has reasonable grounds to believe that the signer is acting under coercion or undue influence;
- (2) the notary has reasonable grounds to believe that the document in connection with which the notarial act is requested may be used for an unlawful or improper purpose;
- (3) the notary has concerns about the capacity of the signing party to understand the contents of the document;
- (4) the notary is not familiar with the type of notarization requested.

(b) A notary who is employed by a governmental body shall not perform notarial services that interfere with the notary's discharge of the notary's duties as a public employee.

(c) A notary may not refuse a request for notarial services on the basis of the sex, age, religion, race, ethnicity or national origin of the requesting party.

(d) A notary should refuse request for notarial services only after careful deliberation.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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SUBCHAPTER E. NOTARY RECORDS

1 TAC §§87.40 - 87.44

Statutory Authority

The new sections are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new sections is Chapter 406 of the Texas Government Code.

§87.40. Prohibition Against Recording Personal Information.

(a) A notary public (other than a court clerk notarizing instruments for the court) shall not record in the notary's record book:

- (1) an identification number that was assigned by a governmental agency or by the United States to the signer, grantor or maker and that is set forth on the identification card or passport presented as identification; or
- (2) any other number that could be used to identify the signer, grantor or maker of the document.

(b) This section does not prohibit a notary from recording a number related to the residence of the signer, grantor or maker of the document or the instrument.

§87.41. Form of Record Book.

A notary may maintain the notary record book electronically in a computer or other storage device so long as the records from that book are adequately backed-up and are capable of being printed in a tangible medium when requested.

§87.42. Public Information.

Entries in the notary public record book are public information. On payment of all fees, the notary shall promptly provide a certified copy of any record in the notary public's record book to any person requesting the copy. If the notary has inadvertently included personal identifiable information in the record book contrary to §87.40 of this title (relating to Prohibition Against Recording Personal Information), the notary must redact that personal information prior to release of the information.

§87.43. Failure to Provide Public Information.

Failure to respond to a request for public information may be good cause for suspension or revocation of a notary commission or other disciplinary action against the notary.

§87.44. Records Retention.

A notary shall retain copies of the records of notarization performed for the longer of the term of the commission in which the notarization occurred or three years following the date of notarization.

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SUBCHAPTER F. CHANGE IN ADDRESS

1 TAC §87.50

Statutory Authority

The new section is proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new section is Chapter 406 of the Texas Government Code.

§87.50. Change of Address.

(a) A notary must notify the secretary of state in writing of a change in address within 10 days of the change. To notify the secretary of state of a change of address, the notary should complete and submit form 2305 (Notary Public Change of Address Form). This form is available on the secretary of state web site at www.sos.state.tx.us/stat-doc/statforms.

(b) The secretary of state sends all official notices, including notices of complaints, to the notary at the address on file with the secretary's office. Requests to obtain copies of or inspect the records in

the notary record book are also directed to the notary at the address on file. Failure to change the address may, consequently, result in a revocation of the notary commission if the notary fails to timely respond to a complaint or to a request for public information.

(c) A notary public who removes his or her residence from Texas vacates the office of notary public and must surrender the notary commission to the secretary of state.

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SUBCHAPTER G. ELECTRONIC SUBMISSIONS OF NOTARY APPLICATIONS AND BONDS

1 TAC §§87.60 - 87.62

Statutory Authority

The new sections are proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new sections is Chapter 406 of the Texas Government Code.

§87.60. Electronic Submission.

(a) The secretary of state may develop a system for electronic submission of the application for notary public commission, the notary bond, and the statement of officer. On implementation, the secretary of state will authorize the submission of these documents electronically on behalf of a notary under the following terms and conditions:

(1) the submitter must comply with the technical specifications contained in the *eNotary Web Service Consumer's Guide* available through the Information Technology Division of the Office of the Secretary of State;

(2) the notary application and the statement of officer signed by the applicant and the surety bond signed by an officer or attorney-in-fact for the surety must be attached to the electronic submission as an image in the format specified in the *eNotary Web Service Consumer's Guide*; and

(3) all fees must be paid by prepaid account, LegalEase® or credit card.

(b) If the applicant is commissioned, the secretary of state will return the commission and the educational materials to the notary by regular mail. On commission, the applicable fees will be charged to the prepaid account, LegalEase® or the credit card.

(c) If the application is rejected, the secretary of state will return a notice of the rejection to the submitter electronically. On rejection, no fees are charged to the account, LegalEase® or to the credit card.

(d) Status of a notary application may be checked on SOSDirect.

(e) If the submitter is not able to consistently comply with the technical specifications and the submissions are failing as a result, the secretary of state may revoke the privilege of the submitter to submit electronically until all technical issues are resolved to the satisfaction of the secretary of state.

(f) As part of the electronic submission, the submitter is responsible for accurately entering the data elements related to the application. Repeated and consistent entry errors may result in a revocation of the privilege of the submitter to submit electronically.

§87.61. Records Retention for Electronic Submissions.

The submitter should retain the original signed application and statement of officer for the duration of the commission to which those documents apply. If the submitter intends to destroy the original documents prior to expiration of the commission, the submitter should confirm with the secretary of state that the image file transmitted with the application is stored and available in the secretary of state's computer system.

§87.62. Applications on Behalf of an Applicant with a Criminal Conviction.

The secretary of state will not accept electronic applications on behalf of an applicant who has been convicted of a felony or a crime of moral turpitude. The application under these circumstances (along with the statement of officer, the bond, the explanation of the criminal conviction and the applicable fees) must be delivered to the secretary of state by mail, courier or personal delivery.

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SUBCHAPTER H. APPOINTMENT OF QUALIFIED ESCROW OFFICER AS NOTARY PUBLIC

1 TAC §87.70

Statutory Authority

The new section is proposed under the authority of §406.023, Texas Government Code, which requires the secretary of state to establish rules for the enforcement and administration of Chapter 406.

Cross Reference to Statutes

The statute affected by the new section is Chapter 406 of the Texas Government Code.

§87.70. Qualification by an Escrow Officer Residing in an Adjacent State.

(a) An applicant who is qualified as an escrow officer within the meaning assigned by §2652.051, Insurance Code, is not required to be a resident of Texas if the applicant is a resident of New Mexico, Oklahoma, Arkansas or Louisiana.

(b) The secretary of state shall commission the applicant if, notwithstanding the residency requirements, the applicant satisfies the conditions of subsection (a) of this section and §87.3 of this title (relating to Issuance of the Notary Public Commission by the Secretary of State).

(c) A notary public, appointed under this section, who ceases to be qualified under this section, must voluntarily surrender the notary public commission.

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TITLE 16. ECONOMIC REGULATION

PART 1. RAILROAD COMMISSION OF TEXAS

CHAPTER 9. LP-GAS SAFETY RULES

SUBCHAPTER A. GENERAL REQUIREMENTS

16 TAC §9.3, §9.41

The Railroad Commission of Texas proposes amendments to §9.3, relating to LP-Gas Report Forms, and §9.41, relating to Testing of LP-Gas Systems in School Facilities, pursuant to House Bill 3918, 81st Legislature (Regular Session, 2009). House Bill 3918 changes the testing method of LP-gas systems in school facilities from pressure testing to leakage testing, requires school districts to retain testing documentation for five years, and allows the Commission to review that documentation. The proposed conforming amendments to §9.3 would add new LPG Form 30, Texas School LP-Gas Leakage Test Report.

The Commission proposes amendments in §9.41(a) to add definitions for "leakage test," "school district facility," and "school LP-gas system." The Commission proposes to define "leakage test" as an operation performed on a school LP-gas system using LP-gas as the test medium at not more than normal operating pressure and a gauging instrument measuring gas pressure in psi, ounces/square inch, or inches of water column to verify there is no gas leakage. The Commission proposes to define "school district facility" as each building or structure operated by a school district and equipped with a school LP-gas system in which students receive instructions or participate in school sponsored extracurricular activities, excluding maintenance or bus fa-

cilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students. The Commission proposes to define "school LP-gas system" as all piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility. The Commission proposes to delete the definition for "board of trustees" because that term is being deleted in proposed amendments to subsection (b).

In §9.41(b), the Commission proposes amendments to change the testing requirement for each school LP-gas systems from a pressure test on the LP-gas piping system in each school district facility to a leakage test for each school LP-gas system. Other proposed amendments in subsection (b) delete wording that refers to pressure testing requirements, specify what must be done if leakage is found, and require the school district to provide the LP-gas supplier with a copy of the LP-Gas Form 30 documenting the test and to retain testing documentation for at least five years.

The Commission proposes a significant change to the procedures a school district must follow if leakage is found. In §9.41(b)(1), the Commission proposes to require that if a leak is found in a school LP-gas system, the school district must immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee.

The Commission proposes new subsections (c) and (d) that specify the leakage test requirements and the methods for conducting the test, including that the results of each leakage test must be documented on LPG Form 30; LP-gas must be used as the test medium; leakage test pressure must not exceed normal operating pressure; leakage test duration must not be less than 30 minutes; test pressure must be monitored with a manometer or with a pressure-measuring instrument; and the manual shutoff valve installed in the piping upstream of each appliance must be open and must supply pressure to the appliance. The methods for conducting a leakage test may be upstream of the first stage regulator; between the first stage and second stage regulators; or downstream of the final stage regulators.

The Commission proposes amendments in current subsection (c), to be redesignated as subsection (e), to state that the supplier must receive notification of the test from the school district, the LP-gas licensee, or the person conducting the leakage test, and that the supplier must receive a copy of LPG Form 30.

The Commission proposes amendments in current subsection (d), to be redesignated as subsection (f), to delete the requirement that the Commission retain the school district's written notice for at least one year, which would be unnecessary because of the proposed requirement that school districts retain the testing documentation for at least five years.

The Commission proposes amendments in current subsection (e), to be redesignated as subsection (g), to change the compliance deadlines for school districts. Current wording requires school districts to perform pressure tests at least once every two years beginning with the 2002-2003 school year. The proposed amendments provide that, beginning with the 2010-2011 school year, school districts must perform a leakage test at least once every two years.

Mary McDaniel, Director, Safety Division, has determined that for each year of the first five years the proposed amendments are in effect there will be fiscal implications for state government as a result of enforcing or administering the sections as amended. Ms. McDaniel anticipates that there will be some efficiencies gained for the Commission by eliminating the need to receive, file, retain, store, and purge paper copies of school districts' written notices of tests on school district LP-gas piping systems. Ms. McDaniel expects that having the testing documentation retained by the school districts will enable the Commission's safety inspectors to perform a complete on-site inspection of school districts' compliance with the testing requirements.

Further, as it has done since this rule was initially adopted in 2002, the Commission will assist school districts in certifying their employees to perform leakage tests. Ms. McDaniel has no way to estimate how many employees or school districts will request such certification, but staff will perform this function with current staffing and within the current budget. The Commission will incur no additional costs to certify school district employees as employee-level LP-gas service and installation technicians, the category of certification that authorizes an individual to perform leakage tests on propane systems. The qualifying examination required to obtain this certification and the eight-hour training class required to maintain the certification are part of the Commission's regular certification program.

Commission records indicate there are 186 accredited school districts in Texas with 890 facilities that use LP-gas; these records do not show whether a particular school district is an entity created under Texas law and accredited by the Texas Education Agency under the Texas Education Code, Chapter 39, Subchapter D; a private elementary or secondary school; or a state or regional school for the blind and visually impaired or the deaf created under the Texas Education Code, Chapter 30.

Ms. McDaniel has determined that there will be fiscal implications for state or regional schools for the blind and visually impaired or the deaf created under Texas Education Code, Chapter 30, that have LP-gas piping systems. These schools currently are required to conduct pressure tests on LP-gas piping systems under the current rule, and will be required to conduct the LP-gas piping leakage tests every two years beginning with the 2010-2011 school year. While it is not possible to determine the exact fiscal impact, Ms. McDaniel anticipates that such schools would experience either a reduction in the cost of complying with the amended rule or no increase in the cost of compliance, provided that no leakage is found in a school LP-gas system. Ms. McDaniel cannot determine the exact fiscal impact of a leakage test because the cost of the test is based on the size and complexity of the LP-gas installation. However, for any particular system, Ms. McDaniel expects that the cost of conducting a leakage test will be considerably less expensive than the cost of performing the pressure test that is currently required. The test preparation for a leakage test is minimal compared to that for a pressure test. The LP-gas piping system does not have to be purged of LP-gas prior to the test or purged of air after testing. Piping in the system does not have to be disassembled, and regulators, appliances, and shutoff valves do not have to be disconnected. The test is conducted using LP-gas as the test medium. Using two hours as the minimum time for conducting a leakage test at \$75 per hour for a plumber to conduct the test yields a minimum estimated cost of \$150 per test every two years. The exact cost to state or regional schools for the blind and visually impaired or the deaf will depend on how many affected systems in a particular school district will be required to be tested, and whether leak-

age is found on any school LP-gas system. These schools will also be required to retain the testing documentation for at least five years and, as they are currently required to do, must notify the schools' LP-gas suppliers that the tests have been done and that the systems passed the tests.

If these schools elect to have employees perform the leakage tests, they may incur costs to certify previously uncertified individuals or to renew certified employees' certifications. The initial cost to a school district to certify a previously uncertified individual is \$40 for the required qualifying examination and \$75 for the initial first-year training class, plus any associated travel expense. The cost to renew a certification is \$35 each year. Certified service and installation technicians are required to complete eight hours of approved continuing education every four years to maintain their certification. Railroad Commission continuing-education classes taken after the initial first-year class are free of charge to certified individuals in continuous good standing. Section 9.51 and §9.52 of this title (relating to General Requirements for Training and Continuing Education, and Training and Continuing Education Courses) specify the Commission's training and continuing education requirements; the Commission proposes no amendments to these rules at this time.

Those state or regional schools for the blind and visually impaired or the deaf created under Texas Education Code, Chapter 30, that have LP-gas piping systems on which a leak is found may experience increased costs of compliance. If a leak is found in a school LP-gas system, the school district must immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee. This may cause the school district to incur a higher cost for the subsequent leakage test. However, using \$75 as the average cost of a leakage test means that having a second leakage test done subsequent to repairing a school LP-gas system would make the compliance cost to the school district equal to the \$150 average cost of one pressure test.

Ms. McDaniel has determined that there will be fiscal implications for local governments, specifically, those public schools created under the laws of this state and accredited by the Texas Education Agency under Texas Education Code, Chapter 39, Subchapter D, as a result of complying with the sections as amended. These schools currently are required to conduct pressure tests on LP-gas piping systems under the current rule, and will be required to conduct the LP-gas piping leakage tests every two years beginning with the 2010-2011 school year. While it is not possible to determine the exact fiscal impact, Ms. McDaniel anticipates that such schools would experience either a reduction in the cost of complying with the amended rule or no increase in the cost of compliance, provided that no leakage is found in a school LP-gas system. Ms. McDaniel cannot determine the exact fiscal impact of a leakage test because the cost of the test is based on the size and complexity of the LP-gas installation. However, for any particular system, Ms. McDaniel expects that the cost of conducting a leakage test will be considerably less expensive than the cost of performing the pressure test that is currently required. The test preparation for a leakage test is minimal compared to that for a pressure test. The LP-gas piping system does not have to be purged of LP-gas prior to the test or purged of air after testing. Piping in the system does not have to be disassembled, and regulators, appliances, and shut-off valves do not have to be disconnected. The test is conducted using LP-gas as the test medium. Using two hours as the min-

imum time for conducting a leakage test at \$75 per hour for a plumber to conduct the test yields a minimum estimated cost of \$150 per test every two years. The exact cost to these public schools will depend on how many affected systems in a particular school district will be required to be tested, and whether leakage is found on any school LP-gas system. These schools will also be required to retain the testing documentation for at least five years and, as they are currently required to do, must notify the schools' LP-gas suppliers that the tests have been done and that the systems passed the tests.

If these schools elect to have employees perform the leakage tests, they may incur costs to certify previously uncertified individuals or to renew certified employees' certifications. The initial cost to a school district to certify a previously uncertified individual is \$40 for the required qualifying examination and \$75 for the initial first-year training class, plus any associated travel expense. The cost to renew a certification is \$35 each year. Certified service and installation technicians are required to complete eight hours of approved continuing education every four years to maintain their certification. Railroad Commission continuing-education classes taken after the initial first-year class are free of charge to certified individuals in continuous good standing. Section 9.51 and §9.52 of this title (relating to General Requirements for Training and Continuing Education, and Training and Continuing Education Courses) specify the Commission's training and continuing education requirements; the Commission proposes no amendments to these rules at this time.

Those local governments, specifically, those public schools created under the laws of this state and accredited by the Texas Education Agency under Texas Education Code, Chapter 39, Subchapter D, that have LP-gas piping systems on which a leak is found may experience increased costs of compliance. If a leak is found in a school LP-gas system, the school district must immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee. This may cause the school district to incur a higher cost for the subsequent leakage test. However, using \$75 as the average cost of a leakage test means that having a second leakage test done subsequent to repairing a school LP-gas system would make the compliance cost to the school district equal to the \$150 average cost of one pressure test.

Ms. McDaniel also has determined that the public benefit anticipated as a result of enforcing the amendments will be enhanced safety in Texas schools that use LP-gas.

Texas Government Code, §2006.002, relating to Adoption of Rules with Adverse Economic Effect, requires that, as a part of the rulemaking process, a state agency prepare an Economic Impact Statement that assesses the potential impact of a proposed rule on small businesses and micro-businesses, and a Regulatory Flexibility Analysis that considers alternative methods of achieving the purpose of the rule if the proposed rule will have an adverse economic effect on small businesses or micro-businesses. Private elementary and secondary schools that have LP-gas systems could fall within the definition of "small business" or "micro-business" in Texas Government Code, §2006.001. Such schools currently are required to perform pressure tests on their LP-gas systems to comply with the rule. Under the rule as proposed to be amended, the Commission expects that the cost of compliance for private elementary and

secondary schools either will be reduced or will not increase, provided that no leakage is found in a school LP-gas system. Ms. McDaniel cannot determine the exact fiscal impact of a leakage test because the cost of the test is based on the size and complexity of the LP-gas installation. However, for any particular system, Ms. McDaniel expects that the cost of conducting a leakage test will be considerably less expensive than the cost of performing the pressure test that is currently required. The test preparation for a leakage test is minimal compared to that for a pressure test. The LP-gas piping system does not have to be purged of LP-gas prior to the test or purged of air after testing. Piping in the system does not have to be disassembled, and regulators, appliances, and shutoff valves do not have to be disconnected. The test is conducted using LP-gas as the test medium. Using two hours as the minimum time for conducting a leakage test at \$75 per hour for a plumber to conduct the test yields a minimum estimated cost of \$150 per test every two years. The exact cost to a private elementary or secondary school will depend on how many affected systems in a particular school district will be required to be tested, and whether leakage is found on any school LP-gas system. These schools will also be required to retain the testing documentation for at least five years and, as they are currently required to do, must notify the schools' LP-gas suppliers that the tests have been done and that the systems passed the tests.

If these private elementary and secondary schools elect to have employees perform the leakage tests, they may incur costs to certify previously uncertified individuals or to renew certified employees' certifications. The initial cost to a school district to certify a previously uncertified individual is \$40 for the required qualifying examination and \$75 for the initial first-year training class, plus any associated travel expense. The cost to renew a certification is \$35 each year. Certified service and installation technicians are required to complete eight hours of approved continuing education every four years to maintain their certification. Railroad Commission continuing-education classes taken after the initial first-year class are free of charge to certified individuals in continuous good standing. Sections 9.51 and 9.52 of this title (relating to General Requirements for Training and Continuing Education, and Training and Continuing Education Courses) specify the Commission's training and continuing education requirements; the Commission proposes no amendments to these rules at this time.

Those private elementary and secondary schools that have LP-gas systems on which a leak is found may experience a modestly increased cost of compliance. If a leak is found in a school LP-gas system, the school district must immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee. This may cause the school district to incur a higher cost for the subsequent leakage test. However, using \$75 as the average cost of a leakage test means that having a second leakage test done subsequent to repairing a school LP-gas system would make the compliance cost to the school district equal to the \$150 average cost of one pressure test. Therefore, the Commission has determined that the proposed amendments will not have an adverse economic effect on small businesses or micro-businesses, and that the analysis described in Texas Government Code, §2006.002, is not required.

Comments on the proposal may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of

Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.php; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments for 30 days after publication in the *Texas Register* and should refer to LPG Docket No. 2082. The Commission encourages all interested persons to submit comments no later than the deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call James Osterhaus, Safety Division, at (512) 463-6692. The status of Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.php.

The Commission proposes the amendments under Texas Natural Resources Code, §113.051, which authorizes the Commission to adopt rules relating to any and all aspects or phases of the LP-gas industry that will protect or tend to protect the health, welfare, and safety of the general public, and Texas Natural Resources Code, §§113.351 - 113.357, which require the testing of LP-gas systems in school districts, as amended by HB 3918, 81st Texas Legislature (Regular Session, 2009).

Texas Natural Resources Code, §113.051 and §§113.351 - 113.357, as amended by HB 3918, 81st Texas Legislature (Regular Session, 2009), are affected by the proposed amendments.

Issued in Austin, Texas on September 29, 2009.

§9.3. *LP-Gas Report Forms.*

Under the provision of the Texas Natural Resources Code, Chapter 113, the Railroad Commission of Texas has adopted the following forms.

(1) - (23) (No change.)

(24) LPG Form 30. Texas School LP-Gas Leakage Test

Report.

(25) [(24)] LPG Form 500. Application for Installation.

(26) [(25)] LPG Form 500A. Notice of Proposed LP-Gas Installation.

(27) [(26)] LPG Form 501. Completion Report for Commercial Installations of Less than 10,000 Gallons Aggregate Water Capacity.

(28) [(27)] LPG Form 502. Request for Commission Identification Nameplate.

(29) [(28)] LPG Form 503. Request for Inspection of an LP-Gas System on School Bus, Public Transportation, Mass Transit, or Special Transit Vehicles.

(30) [(29)] LPG Form 505. Testing Procedures Certification for Category B and O Licenses.

(31) [(30)] LPG Form 506. Polyethylene Pipe/Tubing Heat-Fusion Certification.

(32) [(31)] LPG Form 995. Certification of Political Subdivision of Self-Insurance for General Liability, Workers' Compensation, and/or Motor Vehicle Liability Insurance.

(33) [(32)] LPG Form 996A. Certificate of Insurance, Workers' Compensation and Employer's Liability or Alternative Accident/Health Insurance.

(34) [(33)] LPG Form 996B. Statement in Lieu of Insurance Filing Certifying Workers' Compensation Coverage, including Employer's Liability Insurance or Alternative Accident/Health Insurance.

(35) [(34)] LPG Form 997A. Certificate of Insurance, Motor Vehicle Bodily Injury, and Property Damage Liability.

(36) ~~[(35)]~~ LPG Form 997B. Statement in Lieu of Motor Vehicle Bodily Injury, and Property Damage Liability Insurance.

(37) ~~[(36)]~~ LPG 998A. Certificate of Insurance, General Liability.

(38) ~~[(37)]~~ LPG 998B. Statement in Lieu of General Liability Insurance and/or Completed Operations or Products Liability Insurance.

(39) ~~[(38)]~~ LPG Form 999. Notice of Insurance Cancellation.

§9.41. Testing of LP-Gas Systems in School Facilities.

(a) Definitions. The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

(1) Leakage test--An operation performed on a school LP-gas system using LP-gas as the test medium at not more than normal operating pressure and a gauging instrument measuring gas pressure in psi, ounces/square inch, or inches of water column to verify there is no gas leakage.

~~[(1)]~~ Board of trustees--The governing entity of a school district.

(2) (No change.)

(3) School district facility--Each building or structure operated by a school district and equipped with a school LP-gas system, in which students receive instructions or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

(4) School LP-gas system--All piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

(5) ~~[(3)]~~ Supplier--An individual or company that sells and delivers LP-gas to a school district facility. If more than one individual or company sells and delivers LP-gas to a school district facility, each individual or company is a supplier for purposes of this section.

(b) School district requirements. A ~~[Each]~~ school district shall ensure that a leakage ~~[pressure]~~ test is performed on each school LP-gas system ~~[the LP-gas piping system in each school district facility]~~ as specified in this section. The leakage ~~[pressure]~~ test shall be performed by an LP-gas licensee, an individual ~~[a master or journeyman plumber]~~ registered with the Commission pursuant to §9.13 of this title (relating to General Installers and Repairman Exemption), or an employee of the school district who has been certified by the Commission to perform such a test ~~[pressure tests]~~.

~~[(1)]~~ A test performed under a municipal code shall satisfy the pressure testing requirements of this section.

~~[(2)]~~ Unless performed pursuant to paragraph (1) of this subsection, the pressure test shall be conducted in accordance with the National Fire Protection Association's Pamphlet 54, National Fuel Gas Code, commonly referred to as NFPA 54, as adopted by the Commission in this chapter, and shall be performed to determine whether the LP-gas piping system holds at least the amount of pressure specified by NFPA 54.

(1) ~~[(3)]~~ If a leak is found in a school LP-gas system, the school district shall immediately ~~[-]~~

~~[(A)]~~ remove the affected school district facility ~~[LP-gas system]~~ from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If an employee of a school district performs the initial test, then the subsequent test may not be performed by a school district employee. ~~[another test is done and passed; and]~~

~~[(B)]~~ report an identified LP-gas leakage in a school district facility to the board of trustees of the district in which the facility is located.

~~[(4)]~~ A school district shall provide written notice to the Safety Division ~~(the Division)~~ specifying the date and the result of each pressure test of the LP-gas piping system within one week of the date each test is performed.

(2) ~~[(5)]~~ Each ~~[Before the introduction of any LP-gas into an LP-gas piping system, each]~~ school district shall provide ~~[verification to]~~ the district's supplier with a copy of the most current LP-Gas Form 30 as proof the school LP-gas system ~~[that the LP-gas piping]~~ has been tested in accordance with this section.

(3) A school district shall retain LPG Form 30 specifying the date and result of the leakage test performed on each school LP-gas system for a minimum of five years from the date each test was performed. A school district shall make LPG Form 30 readily available for review by the Commission or its authorized representative upon request.

(c) Leakage test requirements.

(1) The results of each leakage test shall be immediately documented on LPG Form 30.

(2) LP-gas shall be used as the test medium.

(3) Leakage test pressure shall not exceed normal operating pressure.

(4) Leakage test duration shall not be less than 30 minutes.

(5) Test pressure shall be monitored with a manometer or with a pressure-measuring instrument designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the test period. Mechanical gauges used to measure test pressures shall have a range such that the highest end of the scale is not greater than five times the test pressure.

(6) The manual shutoff valve installed in the piping upstream of each appliance must be open and must supply pressure to the appliance. To prove the integrity of the 100 percent pilot shutoff valve on each appliance so equipped, the manual control on the 100 percent pilot shutoff valve must be turned to the on position. Pilots not incorporating a 100 percent pilot shutoff valve and all manual gas valves not incorporating safety shutoff systems shall be in the off position prior to the leakage test.

(d) Methods for conducting a leakage test.

(1) Upstream of first stage regulator. Insert a pressure gauge between the manual shutoff valve on the container(s) and the first stage regulator. Admit full container pressure to the system, and then close the manual shutoff valve on the container(s). Release gas from the system to lower the pressure gauge reading by 10 psig. If there is no decrease or increase in gauge pressure after the minimum test duration, the system has no leakage and may remain in service.

(2) Between first stage and second stage regulators. Insert a pressure gauge with a 30-psi scale downstream of the first stage regulator, pressurize the system to normal operating pressure, and then close the manual shutoff valve on the container(s). Release LP-gas from the

system to lower the pressure gauge reading by at least 5 psi. If there is no decrease or increase in gauge pressure after the minimum test duration, the system has no leakage and may remain in service.

(3) Downstream of final stage regulator(s). For systems serving appliances that receive gas at pressures of 1/2 psig or less, insert a water manometer or pressure gauge into the system downstream of the final system regulator. Pressurize the system to normal operating pressure and close the manual shutoff valve on the container(s). To ensure that all regulators in the system are unlocked and a leak anywhere in the system is communicated to the gauging instrument, release enough gas from the system, through a range burner or other suitable means, to drop the pressure to 9 (plus or minus 1/2) inches of water column. If there is no decrease or increase in gauge pressure after the minimum test duration, the system has no leakage and may remain in service.

(e) ~~[(e)]~~ Supplier requirements. A supplier shall terminate LP-gas service to a school district facility if:

(1) ~~the supplier receives official notification from [the firm or individual conducting the test or from] the school district, the LP-gas licensee, or the person conducting the leakage test that there is [hazardous] leakage in a school LP-gas system [the facility's LP-gas piping system];~~

(2) ~~the leakage test performed on a school LP-gas system [at the facility] was not performed in accordance with the requirements of this section; or~~

(3) ~~the supplier has not received a copy of LPG Form 30 [verification] from the school district verifying that the school LP-gas system [piping] has been tested in accordance with this section.~~

(f) ~~[(d)]~~ Commission requirements.

~~[(1)] The Division shall maintain a copy of each school district's written notice under subsection (b)(4) of this section for at least one year from the date the Division receives the notice.]~~

(1) ~~[(2)] At the request of a school district, the Commission [Division] shall assist the district in providing for the certification of an employee of the school district or school, as applicable, to conduct a leakage [the] test [and in developing a procedure for conducting the test].~~

(2) ~~[(3)] The Safety Division shall initiate any enforcement proceedings necessary under [enforce the provisions of this rule pursuant to] Texas Natural Resources Code, Chapter 113.~~

(g) ~~[(e)]~~ Compliance deadlines.

(1) Each school district shall ensure a leakage test is performed ~~[perform pressure tests]~~ as required by this section at least once every two years beginning with the 2010-2011 ~~[2002-2003]~~ school year.

(2) School districts shall complete the initial leakage ~~[pressure]~~ tests before the beginning of the 2010-2011 ~~[2002-2003]~~ school year. In the case of a year-round school, a school district shall ensure that a leakage ~~[the pressure]~~ test in each school district facility ~~[of those facilities]~~ is conducted and reported not later than July 1 of the year in which the test is performed, with the first test due by July 1, 2010 ~~[2002]~~.

(3) A school district may perform the leakage tests ~~[perform the pressure tests]~~ on a two-year cycle provided that at least ~~[under which the tests are performed for the LP-gas piping systems of approximately]~~ one-half of the school district's facilities are tested each year.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904445

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 475-1295



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER B. LICENSING OF SALES AGENTS

16 TAC §401.153

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.153 (Qualifications for License). The purpose of the proposed amendments is to redefine the term "professional gambler" as used in the State Lottery Act, Texas Government Code, Chapter 466 and the rules of the Commission.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses, micro businesses, local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amendments will not have an economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Michael Anger, Director of the Lottery Operations Division, has determined that for each year of the first five years the proposed amendments would be in effect, the public benefit anticipated from the adoption of the proposed amendments is providing licensees and others with a clear meaning of the term "professional gambler" as it relates to qualifications for licensing of sales agents.

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments may be submitted to Pete Wassdorf, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by e-mail at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal at 11:00 a.m. on Tuesday, October 27, 2009, at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in order to be considered.

The amendments are proposed under the specific requirement of Texas Government Code Chapter 466, Subchapter E, §466.205(b), and the authority of Texas Government Code §466.015, which provides the Commission with the authority

to adopt rules governing the operation of the lottery. The amendments are also proposed under the authority of Texas Government Code §467.102, which provides the Commission with the authority to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, §466.205(b).

§401.153. Qualifications for License.

(a) (No change.)

(b) The director may grant or deny an application for a license under this subchapter based on any one or more factors listed in subsection (a) of this section. In addition, the director shall deny an application for a license under this subchapter upon a finding that the applicant:

(1) (No change.)

(2) is or has been a professional gambler. The term "professional gambler" means a person who:

(A) has engaged in conduct in Texas proscribed by Title 10, Chapter 47, §§47.02, 47.03, 47.04, or 47.05 of the Texas Penal Code as their primary source of income (The term "primary source of income" as used in this subparagraph means more than 50 percent of the person's income on an annual basis);

(i) In adopting the definitions in subparagraph (A) of this paragraph, the conduct proscribed by the Texas Penal Code does not include any conduct for which an exception to criminal prosecution applies, or any conduct for which a person may be entitled to an affirmative defense, including, but not limited to those affirmative defenses allowed under §47.09 of the Texas Penal Code.

(ii) In adopting the definitions in subparagraph (A) of this paragraph, the conduct proscribed by the Texas Penal Code does not include any conduct which would be excepted from prosecution because the conduct was excepted from a definition under Texas Penal Code §47.01, which is essential to prosecution; or

(B) has been convicted under the laws of any state, or governing jurisdiction outside of the United States of being a professional gambler, as defined by the law of that jurisdiction; or

(C) has, on three or more occasions been convicted of a gambling offense in any state or governing jurisdiction.

~~{(2) is or has been a professional gambler. A "professional gambler" is a person whose profession is, or whose major source of income derives from, playing games of chance for profit;}~~

(3) - (10) (No change.)

(c) - (e) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904443

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 344-5012



CHAPTER 402. CHARITABLE BINGO ADMINISTRATIVE RULES SUBCHAPTER A. ADMINISTRATION

16 TAC §402.104

The Texas Lottery Commission (Commission) proposes new 16 TAC §402.104 (Professional Gambler and Gambling Promoter). The purpose of the new rule is to define the terms "professional gambler" and "gambling promoter" as used in the Bingo Enabling Act, Texas Occupations Code, Chapter 2001.

Kathy Pyka, Controller, has determined that for each year of the first five years the proposed new rule will be in effect, there will be no significant fiscal impact for state or local governments as a result of the new rule. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the new rule as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the new rule will not have an economic effect on small businesses as defined in Texas Government Code, §2006.001(2).

Philip D. Sanderson, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years proposed new rule will be in effect, the public benefit anticipated is providing licensees and others with clear and concise meanings of the terms "professional gambler" and "gambling promoter" as related to the eligibility of a person for a manufacturer's or distributor's license.

The Commission requests comments on the proposed new rule from any interested person. Comments on the proposed rule may be submitted to Pete Wassdorf, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by e-mail at legal.input@lottery.state.tx.us. The Commission will hold a public hearing on this proposal at 11:00 a.m. on Tuesday, October 27, 2009, at 611 E. 6th Street, Austin, Texas 78701. Comments on the proposed new rule must be received within 30 days after publication in order to be considered.

The new rule is proposed under Texas Occupations Code, §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, and under Texas Government Code, §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed new rule implements Texas Occupations Code, Chapter 2001.

§402.104. Professional Gambler and Gambling Promoter.

(a) The term "gambling promoter" means a person who has:

(1) engaged in conduct in Texas proscribed by Title 10, Chapter 47, §47.03 of the Texas Penal Code; or

(2) been convicted in any state, or governing jurisdiction outside of the United States under a law that is fundamentally equivalent to promotion of gambling as proscribed by Title 10, Chapter 47, §47.03 of the Texas Penal Code.

(b) The term "professional gambler" means a person who:

(1) has engaged in conduct in Texas proscribed by Title 10, Chapter 47, §§47.02, 47.03, 47.04, or 47.05 of the Texas Penal Code as their primary source of income (The term "primary source of income"

as used in this paragraph, means more than 50 percent of the person's income on an annual basis.); or

(2) has been convicted under the laws of any state, or governing jurisdiction outside of the United States of being a professional gambler, as defined by the law of that jurisdiction; or

(3) has, on three or more occasions been convicted of a gambling offense in any state or governing jurisdiction.

(c) In adopting the definitions in subsections (a) and (b) of this section, the conduct proscribed by the Texas Penal Code does not include any conduct for which an exception to criminal prosecution applies, or any conduct for which a person may be entitled to an affirmative defense, including, but not limited to those affirmative defenses allowed under §47.09 of the Texas Penal Code.

(d) In adopting the definitions in subsections (a) and (b) of this section, the conduct proscribed by the Texas Penal Code does not include any conduct which would be excepted from prosecution because the conduct was excepted from a definition under Texas Penal Code §47.01, which is essential to prosecution.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904442

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 344-5012



TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §4.11

The Texas Higher Education Coordinating Board (Coordinating Board) proposes new §4.11, concerning General Provisions. Specifically, rules governing the Common Admission Application were previously housed in Chapter 5, Subchapter A, §5.6. Chapter 5, however, pertains only to public universities and/or health-related institutions. Senate Bill 502, 79th Texas Legislature, amended the Texas Education Code, §51.762, to include junior college districts, public state colleges, and public technical institutes. Therefore, rules for the Common Admission Application would be more properly housed in Chapter 4, Subchapter A, which pertains to all public institutions of higher education in Texas. The repeal of §5.6 is being simultaneously proposed along with new §4.11. New §4.11 outlines guidelines for the use and payment of the common admission application system. New §4.11 includes language that states that public junior colleges, public state colleges, and public technical

institutes are to be represented on the advisory committee in addition to general academic teaching institutions; and that they are to accept applications submitted through the electronic common admission application system.

Ms. Lois Hollis, Special Assistant to the Deputy Commissioner for Business and Finance/Chief Operating Officer, has determined that for each year of the first five years the new section is in effect, the operating costs of the system will be shared by all institutions required to use the common application plus independent and health-related institutions that contract to use the electronic application.

Ms. Hollis has also determined that for each year of the first five years the new section is in effect, the public benefit anticipated as a result of administering the section will be clarification of the common application rules. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, lois.hollis@thecb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The new section is proposed under the Texas Education Code, §51.762, which provides the Coordinating Board with the authority to adopt rules for the common admission application.

The new section affects Texas Education Code, §51.762.

§4.11. Common Admission Application Forms.

(a) A common application form for freshman and undergraduate transfer applications is hereby adopted by the Coordinating Board pursuant to Texas Education Code, §51.762. The form is adopted in both a printed format, distributed each August to Texas high schools and available at collegeforalltexans.com, and in an electronic format (applytexas.org). The Board, with the assistance of an advisory committee composed of representatives of general academic teaching institutions, public junior colleges, public state colleges, and public technical institutes, will review the form and recommend any changes for subsequent academic years.

(b) Public junior colleges, public state colleges, and public technical institutes must accept freshman and undergraduate transfer applications using the electronic common admission application form. General academic teaching institutions must accept freshman and undergraduate transfer applications using either the electronic or printed format.

(c) Each general academic teaching institution shall collect information regarding gender, race/ethnicity, and date of birth as part of the application process and report this information to the Coordinating Board.

(d) All general academic teaching institutions shall adhere to the following guidelines:

(1) No general academic teaching institution shall pre-print its own name on the printed common application form, and no general academic teaching institution's name or logo shall appear on the form.

(2) When sending the common application to a student along with other supplemental information or when inserting it into a viewbook, it shall be included with no alterations and shall include the instructions for completing the application, the general application information and the list of deadlines for all general academic teaching institutions.

(e) The Coordinating Board shall ensure that copies of the freshman common admission application form and information for its use are available for distribution to appropriate personnel at each Texas public high school. The Coordinating Board will work with institutions and high schools to ensure that all high schools have access to either the printed or electronic common application form. Participating institutions may charge a reasonable fee for the filing of a common application form.

(f) The Coordinating Board shall enter into a contract with a public institution of higher education to maintain the electronic common application system for use by the public in applying for admission to participating institutions and for distribution of the electronic application to the participating institutions designated by the applicant. Operating costs of the system will be paid for by all institutions required to use the common application plus independent and health-related institutions that contract to use the electronic application. Each participating institution shall pay a portion of the cost based on the percentage of its enrollment compared to the total enrollment of all participating institutions based on the previous year's certified enrollment data. The Coordinating Board will monitor the cost of the system and notify the institutions on an annual basis of their share of the cost. Billings for the services for the coming year will be calculated and sent to the institutions in the spring and payments must be received by September 15.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904453

Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: January 28, 2010

For further information, please call: (512) 427-6114



CHAPTER 5. RULES APPLYING TO PUBLIC UNIVERSITIES AND HEALTH-RELATED INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

SUBCHAPTER A. GENERAL PROVISIONS

19 TAC §5.6

(Editor's note: The text of the following section proposed for repeal will not be published. The section may be examined in the offices of the Texas Higher Education Coordinating Board or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Texas Higher Education Coordinating Board (Coordinating Board) proposes the repeal of §5.6, concerning General Provisions. Specifically, rules governing the Common Admission Application are housed in Chapter 5, Subchapter A, §5.6. Chapter 5, however, pertains only to public universities and/or health-related institutions. Senate Bill 502, 79th Texas Legislature, amended the Texas Education Code, §51.762, to include junior college districts, public state colleges, and public technical institutes. Therefore, rules for the Common Admission Application would be more properly housed in Chapter 4, Subchapter A, which pertains to all public institutions of higher education in

Texas. New §4.11 is being simultaneously proposed along with the repeal of §5.6.

Ms. Lois Hollis, Special Assistant to the Deputy Commissioner for Business and Finance/Chief Operating Officer, has determined that for each year of the first five years the repeal is in effect, there will be no fiscal implications to state or local government as a result of enforcing or administering the rules.

Ms. Hollis has also determined that for each year of the first five years the repeal is in effect, the public benefit anticipated as a result of administering the sections will be clarification of the common application rules. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on local employment.

Comments on the proposal may be submitted to Lois Hollis, P.O. Box 12788, Austin, Texas 78711, (512) 427-6465, lois.hollis@theccb.state.tx.us. Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The repeal is proposed under the Texas Education Code, §51.762, which provides the Coordinating Board with the authority to adopt rules for the common admission application.

The repeal affects Texas Education Code, §51.762.

§5.6. Common Admission Application.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

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Bill Franz

General Counsel

Texas Higher Education Coordinating Board

Proposed date of adoption: January 28, 2010

For further information, please call: (512) 427-6114



PART 2. TEXAS EDUCATION AGENCY

CHAPTER 102. EDUCATIONAL PROGRAMS

SUBCHAPTER BB. COMMISSIONER'S RULES CONCERNING MASTER TEACHER GRANT PROGRAMS

19 TAC §§102.1011, 102.1013, 102.1015, 102.1017

The Texas Education Agency proposes amendments to §§102.1011, 102.1013, and 102.1015 and new §102.1017, concerning master teacher grant programs. Sections 102.1011, 102.1013, and 102.1015 implement provisions relating to the master teacher grant programs for reading, mathematics, and science, respectively. The proposed amendments would include an increase in the number of master teacher stipends an eligible campus can receive from two to three per campus for each subject area. The proposed new 102.1017 would establish in rule a grant program for master technology teachers.

The Master Reading Teacher Grant Program was created by House Bill (HB) 2307, 76th Texas Legislature, 1999. The Master Mathematics Teacher Grant Program was created by HB 1144, 77th Texas Legislature, 2001. The Master Science Teacher

Grant Program was created by HB 411, 78th Texas Legislature, 2003. Through 19 TAC §§102.1011, 102.1013, and 102.1015, the commissioner exercised rulemaking authority to adopt rules for implementation of these grant programs and to make grants to school districts to pay stipends to selected certified master reading, mathematics, and science teachers who teach at high-need campuses as identified in rule. The proposed rule actions for 19 TAC Chapter 102, Subchapter BB, would revise the subchapter as follows.

Proposed amendments to 19 TAC §102.1011, Master Reading Teacher Grant Program, §102.1013, Master Mathematics Teacher Grant Program, and §102.1015, Master Science Teacher Grant Program, would revise subsection (e)(1) in each rule to increase the number of master teacher stipends allowed per eligible campus from two to three for each master teacher grant program. Minor technical corrections would also be made in subsection (f) of each rule.

Proposed new 19 TAC §102.1017, Master Technology Teacher Grant Program, would establish in rule the program to award grants to school districts to pay stipends to selected certified master technology teachers who teach at high-need campuses as identified in the proposal. The proposed new rule would define terms and set forth the procedures for school district applications and administration of a grant program for master technology teachers consistent with the grant programs for master reading, mathematics, and science teachers; however, implementation of the Master Technology Teacher Grant Program is not anticipated for the 2009-2011 biennium since no funds were appropriated for that program. Therefore, the proposal would establish a rule for the program, with implementation contingent upon future funding.

The proposed rule actions would have no implications on procedural and reporting requirements. The proposed rule actions would have no new locally maintained paperwork requirements.

Jerel Booker, associate commissioner for educator quality and standards, has determined that for the first five-year period the amendments and new section are in effect there will be no additional costs for state or local government as a result of enforcing or administering the amendments and new section. The proposed amendments that would increase the number of master teacher stipends from two to three per eligible campus would result in an economic benefit to school districts. School districts would experience an increase in funds for reading, mathematics, and science master teacher stipends. However, funding for the technology master teacher stipend would be contingent on a legislative or other appropriation.

Mr. Booker has determined that for each year of the first five years the amendments and new section are in effect the public benefit anticipated as a result of enforcing the rule actions would be the continued implementation of the master teacher grant programs. The programs are intended to encourage teachers to become certified as master teachers and work with other teachers and with students, particularly those in identified high-need campuses, to improve student achievement. There is no anticipated economic cost to persons who are required to comply with the proposed amendments and new section.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The public comment period on the proposal begins October 16, 2009, and ends November 16, 2009. Comments on the proposal may be submitted to Cristina De La Fuente-Valadez, Policy Coordination Division, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701, (512) 475-1497. Comments may also be submitted electronically to rules@tea.state.tx.us or faxed to (512) 463-0028. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 15 calendar days after notice of the proposal has been published in the *Texas Register* on October 16, 2009.

The amendments and new section are proposed under the Texas Education Code, §§21.410-21.413, which authorize the commissioner to adopt rules as necessary to implement master teacher grant programs for reading, mathematics, technology, and science, respectively.

The amendments and new section implement the Texas Education Code, §§21.410-21.413.

§102.1011. Master Reading Teacher Grant Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Identified high-need campus--An identified high-need campus is a campus where the percentage of students reported passing the statewide assessment in reading averages less than or equal to a percentage designated by the commissioner of education. An identified high-need campus does not include:

(A) a discipline alternative education program operated under the Texas Education Code (TEC), §37.008;

(B) a juvenile justice alternative education program; and

(C) a campus where fewer than 30 students took the statewide assessment in reading over the previous three school years for which data are considered.

(2) Master reading teacher--An educator who is employed by a school district and has satisfactorily completed the requirements for master reading teacher certification. The master reading teacher teaches reading and serves as a reading teacher mentor to other teachers.

(3) Master Reading Teacher Grant Program--An annual grant program established in accordance with the TEC, §21.410, under which a school district may apply to the commissioner of education for a grant to pay stipends to selected certified master reading teachers who teach at high-need campuses, in accordance with the provisions of this section.

(4) School district--For the purposes of this section, the definition of school district includes open-enrollment charter school.

(5) School district board of trustees--For the purposes of this section, the definition of a school district board of trustees includes a charter holder board.

(b) Purpose. The Master Reading Teacher Grant Program is established to encourage teachers to:

(1) become certified as master reading teachers; and

(2) work with other teachers and with students in order to improve student reading performance.

(c) Qualifications. A certified master reading teacher is:

(1) a person who holds a reading specialist certificate and has satisfactorily completed a course of instruction approved by the State Board for Educator Certification (SBEC) for the purpose of becoming a master reading teacher; or

(2) a person who holds a teaching certificate who:

(A) has at least three years of teaching experience;

(B) has satisfactorily completed a course of instruction approved by the SBEC for the purpose of becoming a master reading teacher; and

(C) has successfully performed on the master reading teacher certification examination prescribed by the SBEC.

(d) Primary duties. The primary duties of a master reading teacher are to teach reading and to serve as a reading teacher mentor to other teachers for the amount of time and in the manner established by the school district.

(1) Teaching reading is performed when a teacher:

(A) applies knowledge of the interrelated components of reading from early childhood through Grade 12 and uses expertise at the primary, intermediate/middle, or high school level to plan, implement, and monitor reading instruction;

(B) selects, constructs, and administers appropriate reading assessments on an ongoing basis and uses the results to design, inform, and adjust reading instruction to promote student achievement;

(C) applies knowledge of primary and secondary language acquisition, reading difficulties, and dyslexia and related reading disorders to facilitate and promote literacy;

(D) designs and implements instruction based on the Texas Essential Knowledge and Skills (TEKS) in reading at the appropriate grade level; and

(E) creates a positive learning environment that promotes positive student attitudes toward reading and provides equitable opportunities for all students to achieve at a high level.

(2) A reading teacher mentor:

(A) provides mentoring and leadership that facilitate appropriate standards-based and research-based reading instruction;

(B) communicates and collaborates with educational professionals, parents, and others;

(C) coaches and consults with colleagues;

(D) provides professional development opportunities for faculty; and

(E) makes instructional decisions based on data and supported by evidence from research.

(e) Campus eligibility. Test score averages for the statewide assessment in reading for the three previous years will be used to identify a high-need campus.

(1) A school district may receive a grant to pay state stipends for up to three certified master reading teachers per identified high-need campus as determined annually by the commissioner.

~~[(1) The commissioner shall determine, based upon student enrollment, whether a district may receive a grant to pay stipends to one or two certified master reading teachers per identified high-need campus.]~~

~~[(A) A school district may receive a grant to pay state stipends to two certified master reading teachers per identified high-~~

~~need campus having a large student population as determined annually by the commissioner.]~~

~~[(B) A school district may receive a grant to pay state stipends to one certified master reading teacher per identified high-need campus having a small student population as determined annually by the commissioner.]~~

(2) Following the initial year of the grant, a district is not required to reapply for a grant for two consecutive years if the district:

(A) continues to pay a stipend as provided by this subsection;

(B) notifies the commissioner, in accordance with the application instructions, that the circumstances on which the grant was based have not changed; and

(C) notifies the commissioner of changes in the circumstances on which the grant was based, including:

(i) number of months of the teacher's service under master reading teacher certification;

(ii) new designated master reading teachers on previously unserved identified high-need campuses, as defined in [this] subsection (a)(1) of this section;

(iii) changes in designated master reading teachers on already served identified high-need campuses; and

(iv) additional changes affecting the Master Reading Teacher Grant Program, including any information required by the commissioner.

(f) Allocation and use of funds. A school district may apply to the commissioner for grants for each identified high-need campus as defined in subsection (a)(1) [(a)(3)] of this section to be used to pay a year-end stipend to certified master reading teachers in accordance with this section.

(1) The application must contain a certification by the school superintendent that the grants will be used only for the purpose set forth in the TEC, §21.410.

(2) Applications and reports must be filed with the commissioner during the school year in which a stipend is to be paid in accordance with the application instructions.

(3) Grant funds can only be used for the purpose of paying a year-end stipend to a master reading teacher, as defined in subsections (a)(2) [(a)(4)] and (c) of this section, whose primary duties are to teach reading and to serve as a reading teacher mentor to others for the amount of time and in the manner established by the school district.

(g) Payments. A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. The commissioner shall reduce payments to a school district proportionately to the extent an eligible teacher does not meet the requirements under subsection (c) of this section for the entire school year. In the event a teacher qualifies as a master reading teacher for a partial month, the district's written policy will determine how the district counts the partial month (e.g., as no month served or as an entire month served). Only whole months shall be entered on the application by the district on the teacher's behalf.

(h) Designations by the district. A district that employs more certified master reading teachers than the number of grants available under this section shall designate which certified master reading teacher(s) to assign the duties required to receive the state stipend(s).

(1) The designation is based on a written policy adopted by the board of trustees of the district.

(2) Each district shall provide to the commissioner proof acceptable to the commissioner of the master reading teacher certification of a teacher to whom the district is paying a stipend under this section.

(3) The district shall pay a state stipend for only one designated master reading teacher per designated slot on an identified high-need campus.

(4) In unforeseen circumstances (e.g., teacher becomes seriously ill and cannot continue), the district may request from the commissioner an exception to the provisions in this subsection to be considered on a case-by-case basis and only under extreme circumstances.

(5) A decision of the district under this subsection is final and may not be appealed.

(6) The district may use local money to pay additional stipends in amounts determined by the district.

(7) State stipends to certified master reading teachers must be paid by local school districts no later than 30 days after receipt of the grant by the school district.

(i) Audit of expenditures. The commissioner may audit the expenditure of grant funds appropriated for purposes of this section.

§102.1013. Master Mathematics Teacher Grant Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Identified high-need campus--An identified high-need campus is a campus where the percentage of students reported passing the statewide assessment in mathematics averages less than or equal to a percentage designated by the commissioner of education. An identified high-need campus does not include:

(A) a discipline alternative education program operated under the Texas Education Code (TEC), §37.008;

(B) a juvenile justice alternative education program; and

(C) a campus where fewer than 30 students took the statewide assessment in mathematics over the previous three school years for which data are considered.

(2) Master mathematics teacher--An educator who is employed by a school district and has satisfactorily completed the requirements for master mathematics teacher certification. The master mathematics teacher teaches mathematics and serves as a mathematics teacher mentor to other teachers.

(3) Master Mathematics Teacher Grant Program--An annual grant program established in accordance with the TEC, §21.411, under which a school district may apply to the commissioner of education for a grant to pay stipends to selected certified master mathematics teachers who teach at high-need campuses, in accordance with the provisions of this section.

(4) School district--For the purposes of this section, the definition of school district includes open-enrollment charter school.

(5) School district board of trustees--For the purposes of this section, the definition of a school district board of trustees includes a charter holder board.

(b) Purpose. The Master Mathematics Teacher Grant Program is established to encourage teachers to:

(1) become certified as master mathematics teachers; and

(2) work with other teachers and with students in order to improve student mathematics performance.

(c) Qualifications. A certified master mathematics teacher is a person who holds a teaching certificate who:

(1) has at least three years of teaching experience;

(2) has satisfactorily completed a course of instruction approved by the State Board for Educator Certification (SBEC) for the purpose of becoming a master mathematics teacher; and

(3) has successfully performed on the master mathematics teacher certification examination prescribed by the SBEC.

(d) Primary duties. The primary duties of a master mathematics teacher are to teach mathematics and to serve as a mathematics teacher mentor to other teachers for the amount of time and in the manner established by the school district.

(1) Teaching mathematics is performed when a teacher:

(A) applies knowledge of the interrelated components of mathematics, including number concepts, patterns and algebra, geometry and measurement, probability and statistics, and mathematical processes, and uses expertise in mathematics instruction at the primary, intermediate/middle, or high school level to select, design, implement, and monitor appropriate mathematics instruction;

(B) selects, constructs, and administers appropriate mathematics assessments on an ongoing basis and uses the results to design, inform, and adjust mathematics instruction to promote student achievement;

(C) applies knowledge of a range of mathematical achievement (e.g., advanced learners, students demonstrating mathematics difficulties) and effective instructional approaches to facilitate and promote mathematics achievement;

(D) designs and implements instruction based on the Texas Essential Knowledge and Skills (TEKS) in mathematics at the appropriate grade level; and

(E) creates a positive learning environment that promotes positive student attitudes toward mathematics and provides equitable opportunities for all students to achieve at a high level.

(2) A mathematics teacher mentor:

(A) provides mentoring and leadership that facilitate appropriate standards-based and research-based mathematics instruction;

(B) communicates and collaborates with educational professionals, parents, and others;

(C) coaches and consults with colleagues;

(D) provides professional development opportunities for faculty; and

(E) makes instructional decisions based on data and supported by evidence from research.

(e) Campus eligibility. Test score averages for the statewide assessment in mathematics for the three previous years will be used to identify a high-need campus.

(1) A school district may receive a grant to pay state stipends for up to three certified master mathematics teachers per identified high-need campus as determined annually by the commissioner.

~~{(1) The commissioner shall determine, based upon student enrollment, whether a district may receive a grant to pay stipends to one or two certified master mathematics teachers per identified high-need campus.}~~

~~{(A) A school district may receive a grant to pay state stipends to two certified master mathematics teachers per identified high-need campus having a large student population as determined annually by the commissioner.}~~

~~{(B) A school district may receive a grant to pay state stipends to one certified master mathematics teacher per identified high-need campus having a small student population as determined annually by the commissioner.}~~

(2) Following the initial year of the grant, a district is not required to reapply for a grant for two consecutive years if the district:

(A) continues to pay a stipend as provided by this subsection;

(B) notifies the commissioner, in accordance with the application instructions, that the circumstances on which the grant was based have not changed; and

(C) notifies the commissioner of changes in the circumstances on which the grant was based, including:

(i) number of months of the teacher's service under master mathematics teacher certification;

(ii) new designated master mathematics teachers on previously unserved identified high-need campuses, as defined in ~~[this]~~ subsection (a)(1) of this section;

(iii) changes in designated master mathematics teachers on already served identified high-need campuses; and

(iv) additional changes affecting the Master Mathematics Teacher Grant Program, including any information required by the commissioner.

(f) Allocation and use of funds. A school district may apply to the commissioner for grants for each identified high-need campus as defined in subsection (a)(1) ~~[(a)(3)]~~ of this section to be used to pay a year-end stipend to certified master mathematics teachers in accordance with this section.

(1) The application must contain a certification by the school superintendent that the grants will be used only for the purpose set forth in the TEC, §21.411.

(2) Applications and reports must be filed with the commissioner during the school year in which a stipend is to be paid in accordance with the application instructions.

(3) Grant funds can only be used for the purpose of paying a year-end stipend to a master mathematics teacher, as defined in subsections (a)(2) ~~[(a)(4)]~~ and (c) of this section, whose primary duties are to teach mathematics and to serve as a mathematics teacher mentor to others for the amount of time and in the manner established by the school district.

(g) Payments. A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. The commissioner shall reduce payments to a school district proportionately to the extent an eligible teacher does not meet the requirements under subsection (c) of this section for the entire school year. In the event a teacher qualifies as a master mathematics teacher for a partial month, the district's written policy will determine how the district counts the partial month (e.g., as no

month served or as an entire month served). Only whole months shall be entered on the application by the district on the teacher's behalf.

(h) Designations by the district. A district that employs more certified master mathematics teachers than the number of grants available under this section shall designate which certified master mathematics teacher(s) to assign the duties required to receive the state stipend(s).

(1) The designation is based on a written policy adopted by the board of trustees of the district.

(2) Each district shall provide to the commissioner proof acceptable to the commissioner of the master mathematics teacher certification of a teacher to whom the district is paying a stipend under this section.

(3) The district shall pay a state stipend for only one designated master mathematics teacher per designated slot on an identified high-need campus.

(4) In unforeseen circumstances (e.g., teacher becomes seriously ill and cannot continue), the district may request from the commissioner an exception to the provisions in this subsection to be considered on a case-by-case basis and only under extreme circumstances.

(5) A decision of the district under this subsection is final and may not be appealed.

(6) The district may use local money to pay additional stipends in amounts determined by the district.

(7) State stipends to certified master mathematics teachers must be paid by local school districts no later than 30 days after receipt of the grant by the school district.

(i) Audit of expenditures. The commissioner may audit the expenditure of grant funds appropriated for purposes of this section.

§102.1015. Master Science Teacher Grant Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Identified high-need campus--An identified high-need campus is a campus where the percentage of students reported passing the statewide assessment in science averages less than or equal to a percentage designated by the commissioner of education. An identified high-need campus does not include:

(A) a discipline alternative education program operated under the Texas Education Code (TEC), §37.008;

(B) a juvenile justice alternative education program; and

(C) a campus where fewer than 30 students took the statewide assessment in science over the previous three school years for which data are considered.

(2) Master science teacher--An educator who is employed by a school district and has satisfactorily completed the requirements for master science teacher certification. The master science teacher teaches science and serves as a science teacher mentor to other teachers.

(3) Master Science Teacher Grant Program--An annual grant program established in accordance with the TEC, §21.413, under which a school district may apply to the commissioner of education for a grant to pay stipends to selected certified master science teachers who teach at high-need campuses, in accordance with the provisions of this section.

(4) School district--For the purposes of this section, the definition of school district includes open-enrollment charter school.

(5) School district board of trustees--For the purposes of this section, the definition of a school district board of trustees includes a charter holder board.

(b) Purpose. The Master Science Teacher Grant Program is established to encourage teachers to:

(1) become certified as master science teachers; and

(2) work with other teachers and with students in order to improve student science performance.

(c) Qualifications. A certified master science teacher is a person who holds a teaching certificate who:

(1) has at least three years of teaching experience;

(2) has satisfactorily completed a course of instruction approved by the State Board for Educator Certification (SBEC) for the purpose of becoming a master science teacher; and

(3) has successfully performed on the master science teacher certification examination prescribed by the SBEC.

(d) Primary duties. The primary duties of a master science teacher are to teach science and to serve as a science teacher mentor to other teachers for the amount of time and in the manner established by the school district.

(1) Teaching science is performed when a teacher:

(A) applies knowledge of the interrelated components of science, including scientific principles, such as systems and models, properties and patterns, constancy and change; scientific processes, such as inquiry in the laboratory and field, critical thinking and problem-solving; and science concepts, such as relationship between force and motion and interdependence among living systems, and uses expertise in science instruction at the primary, intermediate/middle, or high school level to select, design, implement, and monitor appropriate science instruction. The master science teacher understands ethics in science investigation and laboratory and field safety techniques and employs appropriate pedagogy techniques;

(B) selects, constructs, and administers appropriate science assessments on an ongoing basis and uses the results to design, inform, and adjust science instruction to promote student achievement;

(C) applies knowledge of a range of scientific achievement (e.g., advanced learners, students demonstrating science difficulties) and effective instructional approaches to facilitate and promote science achievement;

(D) designs and implements instruction based on the Texas Essential Knowledge and Skills (TEKS) in science at the appropriate grade level; and

(E) creates a positive learning environment that promotes positive student attitudes toward science and provides equitable opportunities for all students to achieve at a high level.

(2) A science teacher mentor:

(A) provides mentoring and leadership that facilitate appropriate standards-based and research-based science instruction;

(B) communicates and collaborates with educational professionals, parents, and others;

(C) coaches and consults with colleagues;

(D) provides professional development opportunities for faculty; and

(E) makes instructional decisions based on data and supported by evidence from research.

(e) Campus eligibility. Test score averages for the statewide assessment in science for the three previous years will be used to identify a high-need campus.

(1) A school district may receive a grant to pay state stipends for up to three certified master science teachers per identified high-need campus as determined annually by the commissioner.

~~[(1) The commissioner shall determine, based upon student enrollment, whether a district may receive a grant to pay stipends to one or two certified master science teachers per identified high-need campus.]~~

~~[(A) A school district may receive a grant to pay state stipends to two certified master science teachers per identified high-need campus having a large student population as determined annually by the commissioner.]~~

~~[(B) A school district may receive a grant to pay state stipends to one certified master science teacher per identified high-need campus having a small student population as determined annually by the commissioner.]~~

(2) Following the initial year of the grant, a district is not required to reapply for a grant for two consecutive years if the district:

(A) continues to pay a stipend as provided by this subsection;

(B) notifies the commissioner, in accordance with the application instructions, that the circumstances on which the grant was based have not changed; and

(C) notifies the commissioner of changes in the circumstances on which the grant was based, including:

(i) number of months of the teacher's service under master science teacher certification;

(ii) new designated master science teachers on previously unserved identified high-need campuses, as defined in [this subsection (a)(1) of this section];

(iii) changes in designated master science teachers on already served identified high-need campuses; and

(iv) additional changes affecting the Master Science Teacher Grant Program, including any information required by the commissioner.

(f) Allocation and use of funds. A school district may apply to the commissioner for grants for each identified high-need campus as defined in subsection (a)(1) ~~[(a)(3)]~~ of this section to be used to pay a year-end stipend to certified master science teachers in accordance with this section.

(1) The application must contain a certification by the school superintendent that the grants will be used only for the purpose set forth in the TEC, §21.413.

(2) Applications and reports must be filed with the commissioner during the school year in which a stipend is to be paid in accordance with the application instructions.

(3) Grant funds can only be used for the purpose of paying a year-end stipend to a master science teacher, as defined in subsections (a)(2) ~~[(a)(4)]~~ and (c) of this section, whose primary duties are to teach

science [reading] and to serve as a science [reading] teacher mentor to others for the amount of time and in the manner established by the school district.

(g) Payments. A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. The commissioner shall reduce payments to a school district proportionately to the extent an eligible teacher does not meet the requirements under subsection (c) of this section for the entire school year. In the event a teacher qualifies as a master science teacher for a partial month, the district's written policy will determine how the district counts the partial month (e.g., as no month served or as an entire month served). Only whole months shall be entered on the application by the district on the teacher's behalf.

(h) Designations by the district. A district that employs more certified master science teachers than the number of grants available under this section shall designate which certified master science teacher(s) to assign the duties required to receive the state stipend(s).

(1) The designation is based on a written policy adopted by the board of trustees of the district.

(2) Each district shall provide to the commissioner proof acceptable to the commissioner of the master science teacher certification of a teacher to whom the district is paying a stipend under this section.

(3) The district shall pay a state stipend for only one designated master science teacher per designated slot on an identified high-need campus.

(4) In unforeseen circumstances (e.g., teacher becomes seriously ill and cannot continue), the district may request from the commissioner an exception to the provisions in this subsection to be considered on a case-by-case basis and only under extreme circumstances.

(5) A decision of the district under this subsection is final and may not be appealed.

(6) The district may use local money to pay additional stipends in amounts determined by the district.

(7) State stipends to certified master science teachers must be paid by local school districts no later than 30 days after receipt of the grant by the school district.

(i) Audit of expenditures. The commissioner may audit the expenditure of grant funds appropriated for purposes of this section.

§102.1017. Master Technology Teacher Grant Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Identified high-need campus--

(A) An identified high-need campus is a campus where:

(i) the percentage of students reported passing the statewide assessment in reading, mathematics, science, or social studies averages less than or equal to a percentage designated by the commissioner of education; or

(ii) the school is rated Early Tech or Developing Tech in the Teaching and Learning section of the Texas Campus School Technology and Readiness (STaR) chart.

(B) An identified high-need campus does not include:

(i) a discipline alternative education program operated under the Texas Education Code (TEC), §37.008;

(ii) a juvenile justice alternative education program;
and

(iii) a campus where fewer than 30 students took the statewide assessment in reading, mathematics, science, or social studies over the previous three school years for which data are considered.

(2) Master technology teacher--An educator who is employed by a school district and has satisfactorily completed the requirements for master technology teacher certification. The master technology teacher serves as a technology training mentor to other teachers by coaching, modeling, and instructing effective use of technology integration across the curriculum in order to improve student achievement in all disciplines.

(3) Master Technology Teacher Grant Program--An annual grant program established in accordance with the TEC, §21.412, under which a school district may apply to the commissioner of education for a grant to pay stipends to selected certified master technology teachers who teach at high-need campuses, in accordance with the provisions of this section.

(4) School district--For the purposes of this section, the definition of school district includes open-enrollment charter school.

(5) School district board of trustees--For the purposes of this section, the definition of a school district board of trustees includes a charter holder board.

(b) Purpose. The Master Technology Teacher Grant Program is established to encourage teachers to:

(1) become certified as master technology teachers; and

(2) work with other teachers and with students in order to improve student academic achievement.

(c) Qualifications. A certified master technology teacher is:

(1) a person who holds a technology applications or technology education certificate and:

(A) has satisfactorily completed a course of instruction approved by the State Board for Educator Certification (SBEC) for the purpose of becoming a master technology teacher;

(B) has satisfactorily completed a field-based practicum prescribed by an educator preparation program approved by the SBEC;

(C) has successfully performed on the appropriate master technology teacher certification examination prescribed by the SBEC; and

(D) has satisfied any other requirement generally applicable to certificates issued under this title; or

(2) a person who holds a teaching certificate issued under this title and:

(A) has at least three years of teaching experience;

(B) has satisfactorily completed a course of instruction approved by the SBEC for the purpose of becoming a master technology teacher that includes training in:

(i) effective technology instruction techniques, including applications designed to meet the educational needs of students with disabilities;

(ii) classroom teaching methodology that engages student learning through the integration of technology;

(iii) digital learning competencies, including Internet research, graphics, animation, website mastering, and video technologies;

(iv) curriculum models designed to prepare teachers to facilitate an active student learning environment; and

(v) effective professional peer mentoring techniques;

(C) has satisfactorily completed a field-based practicum prescribed by an educator preparation program approved by the SBEC;

(D) has successfully performed on the appropriate master technology teacher certification examination prescribed by the SBEC; and

(E) has satisfied any other requirement generally applicable to certificates issued under this title.

(d) Primary duties. The primary duties of a master technology teacher are to teach technology and to serve as a technology training mentor to other teachers by coaching, modeling, and instructing effective use of technology integration across the curriculum in order to improve student achievement in all disciplines.

(1) Teaching technology is performed when a teacher:

(A) applies effective technology instruction techniques, including applications designed to meet the educational needs of students with disabilities from early childhood through Grade 12 and uses expertise at the primary, intermediate/middle, or high school level to plan, implement, and monitor technology instruction;

(B) selects, constructs, and administers appropriate technology assessments on an ongoing basis and uses the results to design, inform, and adjust technology instruction to promote student achievement;

(C) designs and implements instruction based on the Texas Essential Knowledge and Skills (TEKS) in technology applications at the appropriate grade level; and

(D) creates a positive learning environment that promotes positive student attitudes toward technology and provides equitable opportunities for all students to achieve at a high level.

(2) A technology teacher mentor:

(A) provides mentoring and leadership that facilitate appropriate standards-based and research-based technology instruction;

(B) communicates and collaborates with educational professionals, parents, and others;

(C) coaches and consults with colleagues;

(D) provides professional development opportunities for faculty; and

(E) makes instructional decisions based on data and supported by evidence from research.

(e) Campus eligibility. Test score averages of less than or equal to a percentage designated by the commissioner for the statewide assessment in reading, mathematics, science, or social studies for the three previous years or ratings of Early Tech or Developing Tech in the Teaching and Learning section of the Texas Campus School Technology and Readiness (STaR) chart will be used to identify a high-need campus.

(1) A school district may receive a grant to pay state stipends for up to three certified master technology teachers per identified high-need campus as determined annually by the commissioner.

(2) Following the initial year of the grant, a district is not required to reapply for a grant for two consecutive years if the district:

(A) continues to pay a stipend as provided by this subsection;

(B) notifies the commissioner, in accordance with the application instructions, that the circumstances on which the grant was based have not changed; and

(C) notifies the commissioner of changes in the circumstances on which the grant was based, including:

(i) number of months of the teacher's service under master technology teacher certification;

(ii) new designated master technology teachers on previously unserved identified high-need campuses, as defined in subsection (a)(1) of this section;

(iii) changes in designated master technology teachers on already served identified high-need campuses; and

(iv) additional changes affecting the Master Technology Teacher Grant Program, including any information required by the commissioner.

(f) Allocation and use of funds. A school district may apply to the commissioner for grants for each identified high-need campus as defined in subsection (a)(1) of this section to be used to pay a year-end stipend to certified master technology teachers in accordance with this section.

(1) The application must contain a certification by the school superintendent that the grants will be used only for the purpose set forth in the TEC, §21.412.

(2) Applications and reports must be filed with the commissioner during the school year in which a stipend is to be paid in accordance with the application instructions.

(3) Grant funds can only be used for the purpose of paying a year-end stipend to a master technology teacher, as defined in subsections (a)(2) and (c) of this section, whose primary duties are to teach technology and to serve as a technology teacher mentor to others for the amount of time and in the manner established by the school district.

(g) Payments. A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. The commissioner shall reduce payments to a school district proportionately to the extent an eligible teacher does not meet the requirements under subsection (c) of this section for the entire school year. In the event a teacher qualifies as a master technology teacher for a partial month, the district's written policy will determine how the district counts the partial month (e.g., as no month served or as an entire month served). Only whole months shall be entered on the application by the district on the teacher's behalf.

(h) Designations by the district. A district that employs more certified master technology teachers than the number of grants available under this section shall designate which certified master technology teacher(s) to assign the duties required to receive the state stipend(s).

(1) The designation is based on a written policy adopted by the board of trustees of the district.

(2) Each district shall provide to the commissioner proof acceptable to the commissioner of the master technology teacher certification of a teacher to whom the district is paying a stipend under this section.

(3) The district shall pay a state stipend for only one designated master technology teacher per designated slot on an identified high-need campus.

(4) In unforeseen circumstances (e.g., teacher becomes seriously ill and cannot continue), the district may request from the commissioner an exception to the provisions in this subsection to be considered on a case-by-case basis and only under extreme circumstances.

(5) A decision of the district under this subsection is final and may not be appealed.

(6) The district may use local money to pay additional stipends in amounts determined by the district.

(7) State stipends to certified master technology teachers must be paid by local school districts no later than 30 days after receipt of the grant by the school district.

(i) Audit of expenditures. The commissioner may audit the expenditure of grant funds appropriated for purposes of this section.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 2, 2009.

TRD-200904430

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 475-1497



TITLE 31. NATURAL RESOURCES AND CONSERVATION

PART 16. COASTAL COORDINATION COUNCIL

CHAPTER 501. COASTAL MANAGEMENT PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

31 TAC §501.4

INTRODUCTION AND PURPOSE

The Coastal Coordination Council (Council) proposes amendments to 31 TAC §501.4 (relating to General Procedures) in order to improve the Texas Coastal Management Program (CMP) and to increase the effectiveness of the Council. In 2008, the CMP underwent a self-assessment study whereby Council members, Executive Committee (EC) members, Council staff, and representatives from the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management met to discuss the effectiveness of the CMP and make suggestions for streamlining the program. The study included an examination of the role of the Executive Committee, a group of program experts appointed by Council members to advise

the Council on coastal management issues pursuant to Chapter 33 of the Texas Natural Resources Code.

Currently, the EC meets on a quarterly basis, in between regular Council meetings, and considers the same agenda items to be considered by the Council at its next meeting. While this approach has allowed EC members to review, research, and analyze issues concerning the CMP, EC members and General Land Office (GLO) staff have suggested that the process could be improved to provide better efficiency and additional opportunities for research and feedback to the Council. The EC has provided program guidance and support to the Council for more than ten years, and has been a critical part of the CMP, especially during the early years of the program, when the Council, the EC, GLO staff, and the public were just beginning to understand its processes. Now that the CMP is an established program, CMP participants have been studying ways to improve the program, while achieving efficiency and increasing public knowledge.

The self assessment study concluded that the EC's role should be to serve as an advisory group to the Council, respond to Council inquiries, coordinate implementation of Council directives, and review policies, issues and matters as requested by the Council. It further concluded that the EC should be able to meet on an ad hoc basis as directed by the Council to deal with coastal matters before the Council. Toward that end, and in an attempt to improve effectiveness of the CMP, the Council is proposing amendments to its rules that restructure the EC as an advisory workgroup of program experts appointed by Council members that can offer assistance with respect to coastal management issues and support the Council as needed.

The restructured workgroup will be an advisory body established by the Council, without authority to control public business or public policy. It will provide better opportunities for its members to offer program guidance to the Council, in accordance with the Coastal Coordination Act. In addition, the workgroup will no longer be charged with making preliminary consistency determinations, as the EC never acted in this capacity, and it is not required by statute.

The administrative provisions regarding the EC were established through rulemakings more than 10 years ago, and the Council's proposed amendments to these rules update the CMP and achieve efficiency and consistency in Council procedures.

SECTION BY SECTION ANALYSIS

The proposed amendment to §501.4(c) deletes references to "executive committee" and uses the term "workgroup" instead, in order to better convey the intent of the Council's advisory body. In addition, the proposed amendment no longer requires each Council member to appoint a member to the workgroup, although all members continue to have the option. The proposed amendment to this section also deletes the requirements for quarterly meetings, instead requiring the workgroup to meet at the direction of the Council or the Council Secretary, who can help organize meetings when desired by EC members. Finally, the proposed amendments delete the last sentence of §501.4(c) because the workgroup acts at the discretion of the Council and because the restructured workgroup is not subject to the Texas Open Meetings Act, as described below.

The proposed amendment to §501.4(e) clarifies that the Council Secretary must notify the public of Council meetings in accordance with the Texas Open Meetings Act. The workgroup, an advisory body established by the Council, is not a governmental body and does not have authority to control public business or

public policy. It will be able to meet on an ad hoc basis at the request of the Council or the Council Secretary, and will assist the Council in making determinations related to Texas coastal matters.

FISCAL AND EMPLOYMENT IMPACTS

Ms. Jodena Henneke, Deputy Commissioner for the GLO's Coastal Resources Program Area, has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal impacts to state government as a result of enforcing or administering the amended section.

Ms. Henneke has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal implications for local governments as a result of enforcing or administering the amended section.

Ms. Henneke has also determined that the proposed amended sections will not increase the costs of compliance for small or large businesses and individuals because the amendments relate solely to administrative functions of the Council.

Ms. Henneke has determined that the proposed rulemaking will have no adverse local employment impact that requires an impact statement pursuant to Texas Government Code §2001.022.

PUBLIC BENEFIT

Ms. Henneke has also determined that each year for the first five year period the proposed amendments are in effect the public will benefit from the proposed regulations because the Council will be better able to administer the CMP for the benefit of all Texans. The reformation of the Council's workgroup will result in a more informed Council that can direct the workgroup to focus on specific aspects of the CMP as issues arise. This proactive and efficient approach will help to improve the public's understanding of coastal issues while avoiding unnecessary bureaucracy. Furthermore, the public will benefit from the workgroup's increased ability to meet on an ad hoc basis because the workgroup will be able to address CMP issues as they arise instead of only at scheduled meetings. Recent storm events along the coast demonstrate the need for immediate research and analysis of coastal issues in certain instances. The workgroup will be able to respond as needed and wherever needed to deal with such issues.

Because the workgroup members will still be appointed and directed by the Council, the public will continue to have access to the workgroup through the Council and GLO staff. In addition, the reformation of the workgroup will allow the EC members to provide the public with improved information. The workgroup will improve the efficiency of the Council, reduce the layers of government, and improve communication among all governmental entities that deal with coastal issues.

TAKINGS IMPACT ASSESSMENT

The Council has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and §2.18 of the Attorney General's Private Real Property Rights Preservation Act Guidelines to determine whether a detailed takings impact assessment is required. The Council has determined that the proposed rulemaking does not affect private real property in a manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Sections 17 and 19 of the Texas Constitution. Furthermore, the Council has determined that the proposed rulemaking would not affect any private real property

in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the new rule.

ENVIRONMENTAL REGULATORY ANALYSIS

The Council has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the action is not subject to §2001.0225 because it does not exceed express requirements of state law and does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule of which the specific intent is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or public health and safety of the state or a sector of the state. The proposed amendments are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

PUBLIC COMMENT REQUEST

To comment on the proposed rulemaking, please send a written comment to Mr. Walter Talley, Texas Register Liaison, Texas General Land Office, P.O. Box 12873, Austin, TX 78711, facsimile number (512) 463-6311 or email to walter.talley@glo.state.tx.us. Written comments must be received no later than 5:00 p.m., thirty (30) days from the date of publication of this proposal.

STATUTORY AUTHORITY

The proposed rulemaking is made pursuant to Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the General Land Office (GLO) on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed amendments.

§501.4. General Procedures.

(a) - (b) (No change.)

(c) Each council member may ~~shall~~ appoint a person to represent the member on a council workgroup ~~[an executive committee]~~. The workgroup ~~[executive committee]~~ shall meet as directed by the council or the council secretary ~~[regularly in the interim between regular council meetings]~~ to coordinate implementation of council directives and review of policies, issues, or other matters that will or may be subject to council deliberation. The representative of the commissioner chairs the workgroup. ~~[committee. The executive committee shall consider any matter a committee member refers to the committee.]~~

(d) (No change.)

(e) Any council member may set items for the agenda by submitting them in writing to the secretary at least 21 calendar days before a meeting except that proposed actions that are the subject of a significant unresolved consistency dispute shall be placed on the agenda as provided in §505.34 and §505.66 of this title (relating to Referral of a Proposed Individual Agency Action to the Council for Consistency Review and Referral of Subdivision Actions to the Council for Consistency Review). The secretary shall notify all council members of the agenda by certified or overnight mail, hand-delivery, electronic mail, or telefax at least ten calendar days before each meeting. The secretary shall notify the public of council meetings as required by the Texas Open Meetings Act, Texas Government Code, Title 5, Subtitle A, Chapter 551.

(f) - (h) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904468

Trace Finley

Deputy Commissioner, Policy and Governmental Affairs, General Land Office

Coastal Coordination Council

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 475-1859



CHAPTER 504. COASTAL MANAGEMENT PROGRAM

The Coastal Coordination Council (Council) proposes amendments to 31 TAC §504.11 (relating to Permitting Assistance Coordinator) and §504.22 (relating to Preliminary Findings) in order to improve the Texas Coastal Management Program (CMP) and to increase the effectiveness of the Council. In 2008, the CMP underwent a self-assessment study whereby Council members, Executive Committee (EC) members, Council staff, and representatives from the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management met to discuss the effectiveness of the CMP and make suggestions for streamlining the program. The study included an examination of the role of the Executive Committee (EC), a group of program experts appointed by Council members to advise the Council on coastal management issues pursuant to Chapter 33 of the Texas Natural Resources Code.

INTRODUCTION AND PURPOSE

Currently, the EC meets on a quarterly basis, in between regular Council meetings, and considers the same agenda items to be considered by the Council at its next meeting. While this approach has allowed EC members to review, research, and analyze issues concerning the CMP, EC members and General Land Office (GLO) staff have suggested that the process could be improved to provide better efficiency and additional opportunities for research and feedback to the Council. The EC has provided program guidance and support to the Council for more than ten years, and has been a critical part of the CMP, especially during the early years of the program, when the Council, the EC, GLO staff, and the public were just beginning to understand its processes. Now that the CMP is an established program, CMP participants have been studying ways to improve the program, while achieving efficiency and increasing public knowledge.

The self assessment study concluded that the EC's role should be to serve as an advisory group to the Council, respond to Council inquiries, coordinate implementation of Council directives, and review policies, issues and matters as requested by the Council. It further concluded that the EC should be able to meet on an ad hoc basis as directed by the Council to deal with coastal matters before the Council. Toward that end, and in an attempt to improve effectiveness of the CMP, the Council is proposing amendments to its rules that restructure the EC as an advisory workgroup of program experts appointed by Council members that can offer assistance with respect to coastal management issues and support the Council as needed.

The restructured workgroup will be an advisory body established by the Council, without authority to control public business or public policy. It will provide better opportunities for its members to offer program guidance to the Council, in accordance with the Coastal Coordination Act. In addition, the workgroup will no longer be charged with making preliminary consistency determinations, as the EC never acted in this capacity, and it is not required by statute.

The administrative provisions regarding the EC were established through rulemakings more than 10 years ago, and the Council's proposed amendments to these rules update the CMP and achieve efficiency and consistency in Council procedures.

SECTION BY SECTION ANALYSIS

The proposed amendment to §504.11 removes two references to the executive committee because the Council has proposed to restructure and rename the executive committee pursuant to proposed amendments to 31 TAC §501.4. The proposed amendment to §501.22 removes a reference in subsection (a) to 31 TAC §504.23 because the Council has proposed to repeal that section due to the proposed restructuring of the executive committee.

FISCAL AND EMPLOYMENT IMPACTS

Ms. Jodena Henneke, Deputy Commissioner for the GLO's Coastal Resources Program Area, has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal impacts to state government as a result of enforcing or administering the amended sections.

Ms. Henneke has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal implications for local governments as a result of enforcing or administering the amended sections.

Ms. Henneke has also determined that the proposed amended sections will not increase the costs of compliance for small or large businesses and individuals because the amendments relate solely to administrative functions of the Council.

Ms. Henneke has determined that the proposed rulemaking will have no adverse local employment impact that requires an impact statement pursuant to Texas Government Code §2001.022.

PUBLIC BENEFIT

Ms. Henneke has also determined that for each year of the first five year period the proposed amendments are in effect the public will benefit from the proposed regulations because the Council will be better able to administer the CMP for the benefit of all Texans. The reformation of the Council's workgroup will result in a more informed Council that can direct the workgroup to focus on specific aspects of the CMP as issues arise. This proactive and efficient approach will help to improve the public's understanding of coastal issues while avoiding unnecessary bureaucracy. Furthermore, the public will benefit from the workgroup's increased ability to meet on an ad hoc basis because the workgroup will be able to address CMP issues as they arise instead of only at scheduled meetings. Recent storm events along the coast demonstrate the need for immediate research and analysis of coastal issues in certain instances. The workgroup will be able to respond as needed and wherever needed to deal with such issues.

Because the workgroup members will still be appointed and directed by the Council, the public will continue to have access to the workgroup through the Council and GLO staff. In addition,

the reformation of the workgroup will allow the EC members to provide the public with improved information. The workgroup will improve the efficiency of the Council, reduce the layers of government, and improve communication among all governmental entities that deal with coastal issues.

TAKINGS IMPACT ASSESSMENT

The Council has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and §2.18 of the Attorney General's Private Real Property Rights Preservation Act Guidelines to determine whether a detailed takings impact assessment is required. The Council has determined that the proposed rulemaking does not affect private real property in a manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Sections 17 and 19 of the Texas Constitution. Furthermore, the Council has determined that the proposed rulemaking would not affect any private real property in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the new rule.

ENVIRONMENTAL REGULATORY ANALYSIS

The Council has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the action is not subject to §2001.0225 because it does not exceed express requirements of state law and does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule of which the specific intent is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or public health and safety of the state or a sector of the state. The proposed amendments are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

PUBLIC COMMENT REQUEST

To comment on the proposed rulemaking, please send a written comment to Mr. Walter Talley, Texas Register Liaison, Texas General Land Office, P.O. Box 12873, Austin, TX 78711, facsimile number (512) 463-6311 or email to walter.talley@glo.state.tx.us. Written comments must be received no later than 5:00 p.m., thirty (30) days from the date of publication of this proposal.

SUBCHAPTER B. SMALL BUSINESS PERMITTING ASSISTANCE

31 TAC §504.11

STATUTORY AUTHORITY

The amendments are proposed pursuant to the Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the GLO on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed amendments.

§504.11. *Permitting Assistance Coordinator.*

The permitting assistance coordinator (coordinator) will perform the following functions:

- (1) (No change.)

(2) Reporting Function: The coordinator is responsible for identifying either differences between permitting agencies over rules, interpretations, or policies or any practice that creates the potential for delay in agency permitting decisions. The coordinator is responsible for reporting such matters to the PAG, placing them on the agenda of PAG meetings for discussion, and reporting to the Council ~~[and Council's Executive Committee]~~ on the disposition of those issues. Prior to each Council ~~[and Executive Committee]~~ meeting, the coordinator shall prepare and send to each council member a report containing data documenting the volume of permitting assistance requests and the results and effectiveness of permitting assistance activities.

- (3) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Trace Finley

Deputy Commissioner, Policy and Governmental Affairs, General Land Office

Coastal Coordination Council

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 475-1859



SUBCHAPTER C. PRELIMINARY CONSISTENCY REVIEW

31 TAC §504.22

STATUTORY AUTHORITY

The amendments are proposed pursuant to the Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the General Land Office on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed amendments.

§504.22. *Preliminary Findings.*

(a) Each ~~[Except for actions subject to §504.23 of this title (relating to Executive Committee Action); each]~~ PAG member must submit a preliminary finding to the council secretary in writing no later than ten days after receipt of either a qualified or unqualified statement that an agency or subdivision anticipates approving an application.

- (b) - (d) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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For further information, please call: (512) 475-1859



31 TAC §504.23, §504.24

(Editor's note: The text of the following sections proposed for repeal will not be published. The sections may be examined in the offices of the Coastal Coordination Council or in the Texas Register office, Room 245, James Earl Rudder Building, 1019 Brazos Street, Austin, Texas.)

The Coastal Coordination Council (Council) proposes the repeal of 31 TAC §504.23 (relating to Executive Committee Action) and §504.24 (relating to Effect of Executive Committee Action) in order to improve the Texas Coastal Management Program (CMP) and to increase the effectiveness of the Council. In 2008, the CMP underwent a self-assessment study whereby Council members, Executive Committee (EC) members, Council staff, and representatives from the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management met to discuss the effectiveness of the CMP and make suggestions for streamlining the program. The study included an examination of the role of the Executive Committee (EC), a group of program experts appointed by Council members to advise the Council on coastal management issues pursuant to Chapter 33 of the Texas Natural Resources Code.

INTRODUCTION AND PURPOSE

Currently, the EC meets on a quarterly basis, in between regular Council meetings, and considers the same agenda items to be considered by the Council at its next meeting. While this approach has allowed EC members to review, research, and analyze issues concerning the CMP, EC members and General Land Office (GLO) staff have suggested that the process could be improved to provide better efficiency and additional opportunities for research and feedback to the Council. The EC has provided program guidance and support to the Council for more than ten years, and has been a critical part of the CMP, especially during the early years of the program, when the Council, the EC, GLO staff, and the public were just beginning to understand its processes. Now that the CMP is an established program, CMP participants have been studying ways to improve the program, while achieving efficiency and increasing public knowledge.

The self assessment study concluded that the EC's role should be to serve as an advisory group to the Council, respond to Council inquiries, coordinate implementation of Council directives, and review policies, issues and matters as requested by the Council. It further concluded that the EC should be able to meet on an ad hoc basis as directed by the Council to deal with coastal matters before the Council. Toward that end, and in an attempt to improve effectiveness of the CMP, the Council is proposing amendments to its rules that restructure the EC as an advisory workgroup of program experts appointed by Council members that can offer assistance with respect to coastal management issues and support the Council as needed.

The restructured workgroup will be an advisory body established by the Council, without authority to control public business or public policy. It will provide better opportunities for its members to offer program guidance to the Council, in accordance with the Coastal Coordination Act. In addition, the workgroup will no longer be charged with making preliminary consistency determinations, as the EC never acted in this capacity, and it is not required by statute.

The administrative provisions regarding the EC were established through rulemakings more than 10 years ago, and the Council's proposed rulemaking is to update the CMP and achieve efficiency and consistency in Council procedures.

SECTION BY SECTION ANALYSIS

The Council proposes the repeal of §504.23 and §504.24 pursuant to its proposal to restructure and rename the executive committee through proposed amendments to 31 TAC §501.4. The newly restructured Council workgroup will not be charged with issuing preliminary consistency determinations. Individual Permitting Assistance Group members and their agencies can still issue these determination in accordance with §33.205, Texas Natural Resources Code and 31 TAC §504.21.

FISCAL AND EMPLOYMENT IMPACTS

Ms. Jodena Henneke, Deputy Commissioner for the GLO's Coastal Resources Program Area, has determined that for each year of the first five years the repeal is in effect there will be no fiscal impacts to state government as a result of enforcing or administering the repeal as proposed.

Ms. Henneke has determined that for each year of the first five years the repeal is in effect there will be no fiscal implications for local governments as a result of enforcing or administering the repeal as proposed.

Ms. Henneke has also determined that the repeal of the sections will not increase the costs of compliance for small or large businesses and individuals because the sections relate solely to administrative functions of the Council.

Ms. Henneke has determined that the proposed rulemaking will have no adverse local employment impact that requires an impact statement pursuant to Texas Government Code §2001.022.

PUBLIC BENEFIT

Ms. Henneke has also determined that for each year of the first five year period the proposed repeal is in effect the public will benefit from the repeal as proposed because the Council will be better able to administer the CMP for the benefit of all Texans. The reformation of the Council's workgroup will result in a more informed Council that can direct the workgroup to focus on specific aspects of the CMP as issues arise. This proactive and efficient approach will help to improve the public's understanding of coastal issues while avoiding unnecessary bureaucracy. Furthermore, the public will benefit from the workgroup's increased ability to meet on an ad hoc basis because the workgroup will be able to address CMP issues as they arise instead of only at scheduled meetings. Recent storm events along the coast demonstrate the need for immediate research and analysis of coastal issues in certain instances. The workgroup will be able to respond as needed and wherever needed to deal with such issues.

Because the workgroup members will still be appointed and directed by the Council, the public will continue to have access to the workgroup through the Council and GLO staff. In addition, the reformation of the workgroup will allow the EC members to provide the public with improved information. The workgroup will improve the efficiency of the Council, reduce the layers of government, and improve communication among all governmental entities that deal with coastal issues.

TAKINGS IMPACT ASSESSMENT

The Council has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and §2.18 of the Attorney General's Private Real Property Rights Preservation Act Guidelines to determine whether a detailed takings impact assessment is required. The Council has determined that the proposed rulemaking does not affect private real property in a

manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Sections 17 and 19 of the Texas Constitution. Furthermore, the Council has determined that the proposed rulemaking would not affect any private real property in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the new rule.

ENVIRONMENTAL REGULATORY ANALYSIS

The Council has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the action is not subject to §2001.0225 because it does not exceed express requirements of state law and does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule of which the specific intent is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or public health and safety of the state or a sector of the state. The proposed repeal is not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

PUBLIC COMMENT REQUEST

To comment on the proposed rulemaking, please send a written comment to Mr. Walter Talley, Texas Register Liaison, Texas General Land Office, P.O. Box 12873, Austin, TX 78711, facsimile number (512) 463-6311 or email to walter.talley@glo.state.tx.us. Written comments must be received no later than 5:00 p.m., thirty (30) days from the date of publication of this proposal.

STATUTORY AUTHORITY

The repeal is proposed pursuant to Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the GLO on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed repeal.

§504.23. *Executive Committee Action.*

§504.24. *Effect of Executive Committee Action.*

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Trace Finley

Deputy Commissioner, Policy and Governmental Affairs, General Land Office

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CHAPTER 505. COUNCIL PROCEDURES FOR STATE CONSISTENCY WITH COASTAL

MANAGEMENT PROGRAM GOALS AND POLICIES

INTRODUCTION AND PURPOSE

The Coastal Coordination Council (Council) proposes amendments to 31 TAC §505.22 (relating to Consistency Required for New Rules and Rule Amendments Subject to the Coastal Management Program), §505.23 (relating to Council Certification of Rules and Rule Amendments), §505.24 (relating to Pre-Certification Review of Draft Rules and Draft Rule Amendments), §505.51 (relating to Request for a Non-Binding Advisory Opinion and Council Action), and §505.52 (relating to Request for Council Participation in the Development of General Plans) in order to improve the Texas Coastal Management Program (CMP) and to increase the effectiveness of the Council. In 2008, the CMP underwent a self-assessment study whereby Council members, Executive Committee (EC) members, Council staff, and representatives from the National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management met to discuss the effectiveness of the CMP and make suggestions for streamlining the program. The study included an examination of the role of the Executive Committee (EC), a group of program experts appointed by Council members to advise the Council on coastal management issues pursuant to Chapter 33 of the Texas Natural Resources Code.

Currently, the EC meets on a quarterly basis, in between regular Council meetings, and considers the same agenda items to be considered by the Council at its next meeting. While this approach has allowed EC members to review, research, and analyze issues concerning the CMP, EC members and General Land Office (GLO) staff have suggested that the process could be improved to provide better efficiency and additional opportunities for research and feedback to the Council. The EC has provided program guidance and support to the Council for more than ten years, and has been a critical part of the CMP, especially during the early years of the program, when the Council, the EC, GLO staff, and the public were just beginning to understand its processes. Now that the CMP is an established program, CMP participants have been studying ways to improve the program, while achieving efficiency and increasing public knowledge.

The self assessment study concluded that the EC's role should be to serve as an advisory group to the Council, respond to Council inquiries, coordinate implementation of Council directives, and review policies, issues and matters as requested by the Council. It further concluded that the EC should be able to meet on an ad hoc basis as directed by the Council to deal with coastal matters before the Council. Toward that end, and in an attempt to improve effectiveness of the CMP, the Council is proposing amendments to its rules that restructure the EC as an advisory workgroup of program experts appointed by Council members that can offer assistance with respect to coastal management issues and support the Council as needed.

The restructured workgroup will be an advisory body established by the Council, without authority to control public business or public policy. It will provide better opportunities for its members to offer program guidance to the Council, in accordance with the Coastal Coordination Act. In addition, the workgroup will no longer be charged with making preliminary consistency determinations, as the EC never acted in this capacity, and it is not required by statute.

The administrative provisions regarding the EC were established through rulemakings more than 10 years ago, and the Coun-

cil's proposed amendments to these rules update the CMP and achieve efficiency and consistency in Council procedures.

SECTION BY SECTION ANALYSIS

The proposed amendments to §505.22(d) and §505.23(d)(1) remove unnecessary references to the executive committee because the Council has proposed to restructure and rename the executive committee pursuant to proposed amendments to 31 TAC §501.4.

The proposed amendment to §505.24 deletes subsection (c) because the proposed Council workgroup will no longer be charged with making preliminary consistency determinations, pursuant to proposed amendments to 31 TAC §504.23 and §504.24.

The proposed amendments to §505.51 and §505.52 replace references to the executive committee with the term "workgroup" in accordance with the proposed amendments to 31 TAC §501.4.

FISCAL AND EMPLOYMENT IMPACTS

Ms. Jodena Henneke, Deputy Commissioner for the GLO's Coastal Resources Program Area, has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal impacts to state government as a result of enforcing or administering the amended section.

Ms. Henneke has determined that for each year of the first five years the amended sections as proposed are in effect there will be no fiscal implications for local governments as a result of enforcing or administering the amended section.

Ms. Henneke has also determined that the proposed amended sections will not increase the costs of compliance for small or large businesses and individuals because the amendments relate solely to administrative functions of the Council.

Ms. Henneke has determined that the proposed rulemaking will have no adverse local employment impact that requires an impact statement pursuant to Texas Government Code §2001.022.

PUBLIC BENEFIT

Ms. Henneke has also determined that each year for the first five year period the proposed amendments are in effect the public will benefit from the proposed regulations because the Council will be better able to administer the CMP for the benefit of all Texans. The reformation of the Council's workgroup will result in a more informed Council that can direct the workgroup to focus on specific aspects of the CMP as issues arise. This proactive and efficient approach will help to improve the public's understanding of coastal issues while avoiding unnecessary bureaucracy. Furthermore, the public will benefit from the workgroup's increased ability to meet on an ad hoc basis because the workgroup will be able to address CMP issues as they arise instead of only at scheduled meetings. Recent storm events along the coast demonstrate the need for immediate research and analysis of coastal issues in certain instances. The workgroup will be able to respond as needed and wherever needed to deal with such issues.

Because the workgroup members will still be appointed and directed by the Council, the public will continue to have access to the workgroup through the Council and GLO staff. In addition, the reformation of the workgroup will allow the EC members to provide the public with improved information. The workgroup will improve the efficiency of the Council, reduce the layers of government, and improve communication among all governmental entities that deal with coastal issues.

TAKINGS IMPACT ASSESSMENT

The Council has evaluated the proposed rulemaking in accordance with Texas Government Code §2007.043(b) and §2.18 of the Attorney General's Private Real Property Rights Preservation Act Guidelines to determine whether a detailed takings impact assessment is required. The Council has determined that the proposed rulemaking does not affect private real property in a manner that requires real property owners to be compensated as provided by the Fifth and Fourteenth Amendments to the United States Constitution or Article I, Sections 17 and 19 of the Texas Constitution. Furthermore, the Council has determined that the proposed rulemaking would not affect any private real property in a manner that restricts or limits the owner's right to the property that would otherwise exist in the absence of the new rule.

ENVIRONMENTAL REGULATORY ANALYSIS

The Council has evaluated the proposed rulemaking action in light of the regulatory analysis requirements of Texas Government Code §2001.0225 and determined that the action is not subject to §2001.0225 because it does not exceed express requirements of state law and does not meet the definition of a "major environmental rule" as defined in the statute. "Major environmental rule" means a rule of which the specific intent is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, or public health and safety of the state or a sector of the state. The proposed amendments are not anticipated to adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

PUBLIC COMMENT REQUEST

To comment on the proposed rulemaking, please send a written comment to Mr. Walter Talley, Texas Register, Liaison, Texas General Land Office, P.O. Box 12873, Austin, TX 78711, facsimile number (512) 463-6311 or email to walter.talley@glo.state.tx.us. Written comments must be received no later than 5:00 p.m., thirty (30) days from the date of publication of this proposal.

SUBCHAPTER B. COUNCIL REVIEW AND CERTIFICATION OF AGENCY RULES

31 TAC §§505.22 - 505.24

STATUTORY AUTHORITY

The amendments are proposed pursuant to Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the GLO on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed amendments.

§505.22. Consistency Required for New Rules and Rule Amendments Subject to the Coastal Management Program.

(a) - (c) (No change.)

(d) In addition to pre-certification review pursuant to §505.24 of this title (relating to Pre-Certification Review of Draft Rules or Draft Rule Amendments), an agency may seek clarification or resolution of consistency issues regarding the proposed rule or rule amendment by placing the matter on the agenda of the council [or executive committee].

(e) (No change.)

§505.23. Council Certification of Rules and Rule Amendments.

(a) - (c) (No change.)

(d) The council may base a denial of certification only on:

(1) consistency issues raised in comments to the agency by the council[; ~~executive committee;~~] or the public during the pre-certification review period or the public comment period, if any; or

(2) (No change.)

(e) (No change.)

§505.24. Pre-Certification Review of Draft Rules and Draft Rule Amendments.

(a) - (b) (No change.)

~~[(e) The agency may request a pre-certification work session with the executive committee by placing the matter on the agenda of the earliest meeting of the executive committee at which consideration is practicable.]~~

(c) ~~[(d)]~~ Agencies are encouraged to seek pre-certification review to maximize opportunities to coordinate agency rules, facilitate effective and efficient implementation of the CMP, and to identify and correct possible inconsistencies in the draft rule or draft rule amendment prior to publication of the proposal in the *Texas Register*.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Trace Finley

Deputy Commissioner, Policy and Governmental Affairs, General Land Office

Coastal Coordination Council

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For further information, please call: (512) 475-1859



SUBCHAPTER D. COUNCIL ADVISORY OPINIONS ON GENERAL PLANS

31 TAC §505.51, §505.52

STATUTORY AUTHORITY

The amendments are proposed pursuant to Texas Natural Resources Code §33.052(c), which authorizes the Council to appoint an advisory committee to advise the Council and the GLO on coastal management issues.

Texas Natural Resources Code §33.052(c) is affected by the proposed amendments.

§505.51. Request for a Non-Binding Advisory Opinion and Council Action.

(a) - (b) (No change.)

(c) Prior to council issuance of an advisory opinion, the chair of the council may direct the workgroup [~~executive committee~~] to review the general plan and make a recommendation to the council regarding the consistency of the plan.

(d) - (e) (No change.)

§505.52. Request for Council Participation in the Development of General Plans.

(a) (No change.)

(b) The council may direct the workgroup [~~executive committee, or a subcommittee of the group,~~] to participate in the development of the plan and make regular reports to the council.

(c) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Trace Finley

Deputy Commissioner, Policy and Governmental Affairs, General Land Office

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For further information, please call: (512) 475-1859



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 3. TAX ADMINISTRATION SUBCHAPTER S. MOTOR FUEL TAX

34 TAC §3.438

The Comptroller of Public Accounts proposes an amendment to §3.438, concerning signed statements for purchasing dyed diesel fuel tax free. This amendment incorporates legislative changes in Senate Bill 1495, 81st Legislature, 2009, which amended Tax Code, Chapter 162. Senate Bill 1495 repeals the 7,400-gallon per delivery limitation of dyed diesel fuel. Subsection (c)(2), (3), and (4) is being amended to eliminate the 7,400-gallon single delivery limitation and provide that the monthly limitation applies whether in a single transaction or multiple transactions.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be by providing additional information concerning taxpayer responsibilities. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of Tax Code, Title 2.

The amendment implements Tax Code, §162.206.

§3.438. *Signed Statements for Purchasing Dyed Diesel Fuel Tax Free.*

(a) - (b) (No change.)

(c) Signed Statement. A person with a valid End User Number may purchase dyed diesel fuel tax free for nonhighway use by providing the seller with a signed statement. The signed statement must be substantially in the form provided by the comptroller and is subject to the limitations that are stated in paragraphs (2), (3) and (4) of this subsection. Copies of the blank signed statements may be obtained from the Comptroller of Public Accounts, P.O. Box 13528, Austin, Texas 78711-3528 or requested by calling 512/463-4600, or our toll-free number 1-800-252-1383. Taxpayers may download copies at www.window.state.tx.us.

(1) (No change.)

(2) A person issued an End User Number beginning with DD may buy, and a licensed diesel fuel supplier, permissive supplier, or distributor may sell, dyed diesel fuel tax free using a signed statement for [subject to the following limitations:]

[(A) not more than 7,400 gallons of dyed diesel fuel may be purchased or sold in a single delivery; or]

[(B)] not more than 10,000 gallons of dyed diesel fuel [may be purchased or sold to a purchaser] during a calendar month regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month. The purchase, sale, or delivery that causes the 10,000 gallon limit to be exceeded during a month is not taxable. Any subsequent purchase, sale, or delivery made during the same month is taxable.

(3) A person who has been issued an end user number beginning with DD and who uses the dyed diesel fuel exclusively in the original production of oil and gas, or to increase the production of oil and gas, must obtain a letter of exception authorizing the person to exceed the 10,000 gallon limit. Examples of uses that may occur in the original production or to increase production of oil and gas include the use of dyed diesel fuel to drill, fracture, perforate, squeeze cement, acidize, log, plug back, complete, plug and abandon, install a casing liner, pull or reset a casing liner, swab, drill out a plug, jet, pack gravel or workover, and perform a hot oil treatment on a formation. Oil and gas production does not include maintaining the site, mowing, painting, gauging tanks, changing pumps, performing rod or tubing jobs, fishing for rods or tubing, repairing a tubing leak, changing a packer or anchor, performing hot oil or water treatment on casing, tubing or flow lines, and transporting. A person who uses dyed diesel fuel exclusively in the original production of oil and gas or to increase the production of oil and gas, may buy, and a licensed diesel fuel supplier, permissive supplier, or distributor may sell, dyed diesel fuel tax free by using a letter of exception and a signed statement for [, subject to the following limitations:]

[(A) not more than 7,400 gallons of dyed diesel fuel may be purchased or sold in a single delivery; or]

[(B)] not more than 25,000 gallons of dyed diesel fuel [may be purchased or sold to a purchaser] during a calendar month regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month. The purchase, sale, or delivery that causes the 25,000 gallon limit to

be exceeded during a calendar month is not taxable. Any subsequent purchase, sale, or delivery made during the same calendar month is taxable.

(4) A person who has been issued an end user number beginning with AG and who uses dyed diesel fuel exclusively for an agricultural purpose as described in Tax Code, §162.001, may buy, and a diesel fuel licensed supplier, permissive supplier, or distributor may sell, dyed diesel fuel tax free using a signed statement for [subject to the following limitations:]

[(A) not more than 7,400 gallons of dyed diesel fuel may be purchased or sold in a single delivery; or]

[(B)] not more than 25,000 gallons of dyed diesel fuel [may be purchased or sold to an end user] during a calendar month regardless of whether the dyed diesel fuel is purchased in a single transaction during that month or in multiple transactions during that month. The purchase, sale, or delivery that causes the 25,000 gallon limit to be exceeded during a calendar month is not taxable. Any subsequent purchase, sale, or delivery made during the same calendar month is taxable.

Figure: 34 TAC §3.438(c)(4)

(d) - (f) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Martin Cherry

General Counsel

Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



34 TAC §3.439

The Comptroller of Public Accounts proposes an amendment to §3.439, concerning motor fuel transportation documents. This amendment incorporates legislative changes in Senate Bill 1495, 81st Legislature, 2009, which amended Tax Code, Chapter 162. Senate Bill 1495 requires that the shipping document be retained by the seller, transporter and purchaser. Subsection (e) is being amended to require the seller and the transporter to retain a copy of the cargo manifest or shipping document for four years.

John Heleman, Chief Revenue Estimator, has determined that for the first five-year period the rule will be in effect, there will be no significant revenue impact on the state or units of local government.

Mr. Heleman also has determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be by providing additional information concerning taxpayer responsibilities. This rule is proposed under Tax Code, Title 2, and does not require a statement of fiscal implications for small businesses. There is no significant anticipated economic cost to individuals who are required to comply with the proposed rule.

Comments on the proposal may be submitted to Bryant K. Lomax, Manager, Tax Policy Division, P.O. Box 13528, Austin, Texas 78711.

The amendment is proposed under Tax Code, §111.002, which provides the comptroller with the authority to prescribe, adopt, and enforce rules relating to the administration and enforcement of Tax Code, Title 2.

The amendment implements Tax Code, §162.016.

§3.439. *Motor Fuel Transportation Documents* [~~(Tax Code, §§162.004, 162.016, 162.115, and 162.216)~~].

(a) - (d) (No change.)

(e) Delivery of cargo manifest or shipping document. One copy of the shipping document or cargo manifest shall be delivered to the purchaser when the fuel is delivered, and the seller shall retain one copy. If a motor fuel transporter delivers the fuel, the motor fuel transporter must also retain one copy. Copies [The person to whom the motor fuel is delivered must keep copies] of shipping documents must be retained by the seller, transporter and receiver for at least four years from the date of delivery.

(1) - (4) (No change.)

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Martin Cherry

General Counsel

Comptroller of Public Accounts

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For further information, please call: (512) 475-0387



TITLE 40. SOCIAL SERVICES AND ASSISTANCE

PART 15. TEXAS VETERANS COMMISSION

CHAPTER 459. TRANSPORTATION SUPPORT SERVICES

40 TAC §§459.1 - 459.6

The Texas Veterans Commission (Commission) proposes new Chapter 459, §§459.1 - 459.6, concerning Transportation Support Services (TSS), which will be located in Title 40, Part 15, of the Texas Administrative Code. The proposed new rules are authorized under Texas Government Code §434.010, granting the Commission the authority to establish rules.

Section 459.1, Purpose. Explains that the purpose of these funds is to support veterans who are receiving employment services from a Veterans Employment Representative (VER) by providing temporary transportation assistance in order to obtain or retain employment.

Section 459.2, Definitions. Provides definitions of Case Management and Veteran applicable to this chapter.

Section 459.3, Eligibility. To be eligible to receive TSS a recipient must be a veteran as defined in §459.2, demonstrate financial need and be either unemployed or employed in their most recent job less than 30 days. Written documentation must also support the request for TSS.

Section 459.4, Priority for Receipt of TSS. The VER will provide TSS to veterans in the following order of priority: unemployed veterans who are receiving Case Management services from a VER; unemployed veterans receiving services from a VER; veterans employed in their most recent job less than 30 days and who received services from a VER prior to their most recent job; and demonstration of financial need.

Section 459.5, Use of Funds. This section provides for allowable and not allowable uses of TSS funds. It also prevents future TSS benefits for a veteran who uses the TSS benefits for anything other than their intended purpose.

Section 459.6, Implementation. This section clarifies that TSS is contingent on the availability of funds. Additionally, this section requires the agency to establish procedures to implement these rules.

Tina Carnes, General Counsel, has determined that for each year of the first five-year period that the new rules are in effect there will be no increase in expenditures or revenue for state government and no fiscal impact for local government as a result of enforcing or administering the proposed new rules. There is no anticipated economic cost to persons who are required to comply with the proposed rules. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed rules will not have an economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Bill Wilson, Director, Veterans Employment Services, has determined that for each year of the first five years the proposed rules would be in effect, the public benefits anticipated from the adoption of the proposed rules are the employment and retained employment of more Texas veterans.

Ms. Carnes has also determined that for the first five-year period the proposed rules are in effect there should be no effect on a local economy; therefore, no local employment impact statement is required under the Administrative Procedure Act, §2001.022.

Comments on the proposed new rules may be submitted to Tina Carnes, General Counsel, Texas Veterans Commission, 1700 North Congress Avenue, Austin, Texas 78701 or by fax to (512) 463-3288. Comments may also be submitted electronically to tina.carnes@tvc.state.tx.us. For comments submitted electronically, please include "Veterans Employment Services" in the subject line. The deadline for submission of comments is 20 days from the date of publication of the proposed new section in the *Texas Register*. Comments should be organized in a manner consistent with the organization of the rule under consideration.

The new rules are proposed pursuant to Texas Government Code §434.010, which provides general authority for the commission to adopt rules necessary for its administration.

No other statutes, articles, or codes are affected by these rules.

§459.1. Purpose.

The purpose of Transportation Support Services is to support veterans who are receiving employment services from a Veterans Employment Representative by providing temporary transportation assistance in order to obtain or retain employment.

§459.2. Definitions.

(a) Case Management--intensive services provided by Texas Veterans Commission Veterans Employment Representative staff that result in the signing of an Individualized Development Plan.

(b) Veteran has the same meaning assigned to "eligible veteran" in 38 USC §4211.

§459.3. Eligibility.

To be eligible for Transportation Support Services (TSS), a veteran must be qualified under paragraphs (1) and (2) of this section.

(1) To be eligible to receive TSS a veteran must demonstrate financial need and:

(A) be unemployed; or

(B) be employed in their most recent job less than 30 days.

(2) A veteran must receive written support for TSS funds request from a Texas Veterans Commission Veterans Employment Representative.

§459.4. Priority for Receipt of Transportation Support Services (TSS).

A Veterans Employment Representative (VER) shall consider veterans for receipt of TSS in the following order of priority:

(1) unemployed and receiving Case Management services from a VER;

(2) unemployed and receiving services from a VER;

(3) employed in their most recent job less than 30 days and received services from a VER prior to their most recent job; or

(4) demonstration of financial need.

§459.5. Use of Transportation Support Services (TSS) Funds.

(a) Use of TSS funds may include, but are not limited to:

(1) gas cards;

(2) bus vouchers; and

(3) other pre-purchase transportation costs appropriate for obtaining or retaining employment.

(b) TSS funds may not be used to:

(1) reimburse a veteran for transportation expenses;

(2) pay vehicle insurance; or

(3) any individual transportation cost that exceeds \$50.

(c) A veteran who uses TSS assistance for anything other than its intended purpose is ineligible to receive future TSS assistance.

§459.6. Implementation.

(a) Transportation Support Services (TSS) is contingent on the availability of funds.

(b) The agency shall establish procedures to implement these rules that may include limitations on expenditure amounts, distribution of TSS funds, documentation, appropriate financial controls, modes of travel or additional restrictions necessary to ensure effective and efficient use of these funds.

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Filed with the Office of the Secretary of State on October 2, 2009.

TRD-200904432

Tina M. Carnes

General Counsel

Texas Veterans Commission

Earliest possible date of adoption: November 15, 2009

For further information, please call: (512) 463-1981

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WITHDRAWN RULES

Withdrawn Rules include proposed rules and emergency rules. A state agency may specify that a rule is withdrawn immediately or on a later date after filing the notice with the Texas Register. A proposed rule is withdrawn six months after the date of publication of the proposed rule in the Texas Register if a state agency has failed by that time to adopt, adopt as amended, or withdraw the proposed rule. Adopted rules may not be withdrawn. (Government Code, §2001.027)

TITLE 16. ECONOMIC REGULATION

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.301

The Texas Lottery Commission withdraws the proposed amendments to §401.301 which appeared in the July 24, 2009, issue of the *Texas Register* (34 TexReg 4811).

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904439

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: October 5, 2009

For further information, please call: (512) 344-5012



16 TAC §401.302

The Texas Lottery Commission withdraws the proposed amendments to §401.302 which appeared in the July 24, 2009, issue of the *Texas Register* (34 TexReg 4813).

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904440

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: October 5, 2009

For further information, please call: (512) 344-5012



16 TAC §401.317

The Texas Lottery Commission withdraws the proposed new §401.317 which appeared in the July 24, 2009, issue of the *Texas Register* (34 TexReg 4816).

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904441

Kimberly L. Kiplin

General Counsel

Texas Lottery Commission

Effective date: October 5, 2009

For further information, please call: (512) 344-5012



ADOPTED RULES

Adopted rules include new rules, amendments to existing rules, and repeals of existing rules. A rule adopted by a state agency takes effect 20 days after the date on which it is filed with the Secretary of State unless a later date is required by statute or specified in the rule (Government Code, §2001.036). If a rule is adopted without change to the text of the proposed rule, then the *Texas Register* does not republish the rule text here. If a rule is adopted with change to the text of the proposed rule, then the final rule text is included here. The final rule text will appear in the Texas Administrative Code on the effective date.

TITLE 4. AGRICULTURE

PART 13. PRESCRIBED BURNING BOARD

CHAPTER 227. CERTIFICATION, RECERTIFICATION, RENEWAL SUBCHAPTER A. CERTIFICATION REQUIREMENTS

4 TAC §227.4, §227.7

The Prescribed Burning Board (the Board) adopts amendments to Chapter 227, §227.4, concerning application fees, and §227.7, concerning the term of certification as a certified prescribed burn manager, without changes to the proposal published in the August 21, 2009, issue of the *Texas Register* (34 TexReg 5629). The amendments to §227.4 and §227.7 change the term of certification from five to two years. The amendments are adopted to make the sections consistent with changes made to the Natural Resources Code, Chapter 153 by Senate Bill 1016, 81st Legislature, 2009 (SB 1016). The amendments will further allow the Board and the Texas Department of Agriculture to verify insurance, training, and experience requirements for certified prescribed burn managers on a more frequent basis, which will ensure that trained and experienced persons are conducting prescribed burning activities in Texas, and ultimately help reduce the threat of wildfires.

No comments were received on the proposal.

The amendments are adopted under the Natural Resources Code, §153.046, which provides the Board with the authority to establish standards for prescribed burning, and standards for certification, recertification, and training for prescribed burn managers; and the Natural Resources Code, §153.048, as amended by SB 1016, which provides that a prescribed burn manager certification is for a two-year period.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 1, 2009.

TRD-200904428

Dolores Alvarado Hibbs

General Counsel, Texas Department of Agriculture

Prescribed Burning Board

Effective date: October 21, 2009

Proposal publication date: August 21, 2009

For further information, please call: (512) 463-4075

TITLE 16. ECONOMIC REGULATION

PART 2. PUBLIC UTILITY COMMISSION OF TEXAS

CHAPTER 25. SUBSTANTIVE RULES APPLICABLE TO ELECTRIC SERVICE PROVIDERS

SUBCHAPTER O. UNBUNDLING AND MARKET POWER

DIVISION 2. INDEPENDENT ORGANIZATIONS

16 TAC §25.361, §25.364

The Public Utility Commission of Texas (commission) adopts an amendment to §25.361, relating to the Electric Reliability Council of Texas (ERCOT), and adopts new §25.364, relating to Decertification of an Independent Organization, without changes to the proposed text as published in the July 17, 2009, issue of the *Texas Register* (34 TexReg 4715). The new rule establishes the process the commission will use to decertify an independent organization, select a successor organization, provide for the transfer of assets, and facilitate the transition to the successor. The amendment specifies that the Electric Reliability Council of Texas (ERCOT), which is certified as an independent organization, is subject to the decertification provisions adopted in new §25.364. This new rule and amendment are competition rules subject to judicial review as specified in Public Utility Regulatory Act (PURA) §39.001(e). The amendment of §25.361 and new §25.364 are adopted under Project Number 33812.

A public hearing was not requested and the commission received comments from only one party, Texas Industrial Energy Consumers (TIEC), on the proposed new §25.364. No party filed comments on the proposed amendment to §25.361.

Section 25.364(d)

TIEC recognized the significance of the commission acting to decertify an independent organization. To reflect the gravity of such a task, TIEC suggested the commission modify the rule to require progressive actions, such as administrative penalties or other enforcement measures, before undertaking decertification.

Commission Response

The commission agrees that the decertification of an independent organization would constitute a serious and significant action. While the commission recognizes the potential value in a

progressive approach to achieve corrective action, the rule, as proposed, does not foreclose such an approach. In fact, the proposed rule allows the commission the flexibility to take less onerous actions, if warranted, but retains flexibility for the commission to undertake decertification directly if the actions of an independent organization are so egregious that the commission does not envision lesser remedies achieving sufficient results. PURA §39.151(d) permits the commission the flexibility to take appropriate action against an independent organization that fails to adequately perform its required functions and the rule should reflect the commission's flexibility to choose the appropriate action, including decertification. Therefore, the commission declines to accept TIEC's proposed modification to subsection (d).

Section 25.364(f)

TIEC suggested modifications to §25.364(f) that would define the requirements for a successor independent organization and proposed that certification of the successor would be required before an order decertifying the existing independent organization could be issued. The requirements proposed by TIEC consist of the statutory requirements for an independent organization contained in PURA §39.151(a), the requirements imposed on ERCOT, set forth in §25.361 in its role as an independent organization, and a requirement that the commission approve the successor organization's governing body, bylaws, and protocols as part of the certification proceeding.

Commission Response

The commission agrees that consideration of the statutory requirements itemized by TIEC is essential when the commission designates a successor organization. At the time the commission decides to undertake the certification of a successor independent organization, the commission can establish the standards for approval of the successor. The commission can, of course, rely on the required functions described in §25.361 as a starting point, but it may wish to modify or augment those requirements in light of the decertification proceeding it has undertaken.

TIEC's proposal that the certification of a successor organization be completed before the existing organization is decertified may have merit, but it limits the commission's flexibility when handling such a significant and extraordinary case. The decertification of an independent organization and the certification of a successor organization should be rare events. The commission should not at this time decide how best to handle the processing of those cases, but instead should retain its options to achieve the best transition from one organization to another. Accordingly, the commission declines to modify §25.364(f) as suggested by TIEC.

This amendment and new rule are adopted under PURA, Texas Utilities Code Annotated §14.002 (Vernon 2007 and Supp. 2008), which provides the commission with the authority to make and enforce rules reasonably required in the exercise of its powers and jurisdiction; and, specifically, PURA §39.151, which requires the commission to adopt a rule to address decertifying an independent organization and selecting and certifying a successor organization.

Cross Reference to Statutes: Public Utility Regulatory Act §14.002 and §39.151.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 29, 2009.

TRD-200904404

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Effective date: October 19, 2009

Proposal publication date: July 17, 2009

For further information, please call: (512) 936-7223



TITLE 19. EDUCATION

PART 7. STATE BOARD FOR EDUCATOR CERTIFICATION

CHAPTER 232. GENERAL CERTIFICATION PROVISIONS

SUBCHAPTER A. TYPES AND CLASSES OF CERTIFICATES ISSUED

19 TAC §232.4

The State Board for Educator Certification (SBEC) adopts an amendment to §232.4, concerning types and classes of certificates issued. The amendment to §232.4 is adopted without changes to the proposed text as published in the May 1, 2009, issue of the *Texas Register* (34 TexReg 2650) and will not be republished. The section provides the requirements for the issuance of probationary certificates. The adopted amendment removes language that allows the SBEC to grant a waiver of the baccalaureate degree requirement for a probationary certificate that requires such a degree.

The adopted amendment also grants an additional year's extension of a probationary certificate to an educator whose contract is terminated, or who resigns in lieu of termination, before the end of a school year due to a reduction in force by a school district.

The Texas Education Code (TEC), §21.041, authorizes the SBEC to provide for the regulation of educators and to adopt rules providing for disciplinary proceedings.

Section 232.4 allowed the SBEC to grant a waiver of the probationary certificate requirement of a baccalaureate degree. The rule formerly established no procedures or standards for such a waiver. The adopted amendment deletes the provision for granting a waiver of the requirement of a baccalaureate degree for those certificates that require such a degree. Granting such waivers would result in a general reduction in teacher quality standards.

The adopted amendment to §232.4, Probationary Certificates, deletes the phrase "unless otherwise approved by the State Board for Educator Certification (SBEC)" in subsection (c)(1) for those certificates that require such a degree.

Section 232.4(d)(1) currently provides that a probationary certificate can be extended for no more than two additional annual terms. In the event that a school district is required by its financial situation to conduct a reduction in force, an educator who is so terminated, or resigns in lieu of termination, and is working under a probationary certificate would not be able to complete

his or her internship and other requirements for certification and would lose one of his or her allotted probationary terms. Therefore, an exception was added to subsection (d)(1) that provides that an educator who is subject to a reduction-in-force termination, or resigns in lieu of termination, would not lose the annual probationary term for that school year.

Grammatical and technical changes were also made to §232.4 such as the term "bachelor's" degree was replaced with the term "baccalaureate" degree and the language regarding approved accrediting agencies was revised to be consistent with current practice. Also, references to 19 TAC Chapter 230 were updated and the definition for TEA staff was moved from subsection (f) to subsection (a).

The adopted amendment has no procedural and reporting implications. Also, the adopted amendment has no locally maintained paperwork requirements.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

No comments were received regarding the proposed amendment.

The State Board of Education (SBOE) took no action on the review of the amendment to 19 TAC §232.4 at the September 18, 2009, SBOE meeting.

The amendment is adopted under the Texas Education Code (TEC), §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; and §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

The adopted amendment implements the TEC, §21.041(b)(1), (2), and (4).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904446

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



CHAPTER 233. CATEGORIES OF CLASSROOM TEACHING CERTIFICATES

19 TAC §233.1, §233.15

The State Board for Educator Certification (SBEC) adopts amendments to §233.1 and §233.15, concerning categories of

classroom teaching certificates. The amendments to §233.1 and §233.15 are adopted without changes to the proposed text as published in the May 1, 2009, issue of the *Texas Register* (34 TexReg 2653) and will not be republished. The sections provide the oral proficiency requirements and teaching assignment rules relating to the certificates for languages other than English.

The adopted amendments require an oral proficiency examination for languages other than English (LOTE) certificates. The adopted amendments also expand the certificates issued for LOTE by adding four new certificates for French, German, and Spanish to be issued no earlier than November 1, 2009, and for Latin to be issued no earlier than January 1, 2010.

The Texas Education Code (TEC), §21.041(b)(1), authorizes the SBEC to propose rules that provide for the regulation of educators. In order to update standards and provide new grade level certifications, the following changes were adopted.

Language was added to 19 TAC §233.1 to emphasize the need for an oral or communication proficiency examination as part of the certification process for LOTE certificates in new subsection (f).

The adopted amendment to 19 TAC §233.15 adds four new certificates for LOTE in French: Early Childhood-Grade 12 in new subsection (d); German: Early Childhood-Grade 12 in new subsection (e); Latin: Early Childhood-Grade 12 in new subsection (g); and Spanish: Early Childhood-Grade 12 in new subsection (i). The new certificates allow the holder to teach in a prekindergarten program, in kindergarten, and in Grades 1-12. The new LOTE certificates for French, German, and Spanish would be issued no earlier than November 1, 2009. The new LOTE certificate for Latin would be issued no earlier than January 1, 2010.

The adopted amendments have no procedural and reporting implications. Also, the adopted amendments have no locally maintained paperwork requirements.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

No comments were received regarding the proposed amendments.

The State Board of Education (SBOE) took no action on the review of the amendments to 19 TAC §233.1 and §233.15 at the September 18, 2009, SBOE meeting.

The amendments are adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.031(a), which states that the SBEC shall regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; and §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate.

The adopted amendment implements the TEC, §§21.003(a), 21.031(a), and 21.041(b)(1) and (4).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904447

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



CHAPTER 241. PRINCIPAL CERTIFICATE

The State Board for Educator Certification (SBEC) adopts amendments to §§241.1, 241.5, 241.10, 241.15, and 241.30; the repeal of §§241.20, 241.25, and 241.40; and new §241.20 and §241.25, concerning provisions for the principal certificate. The amendments to §§241.1, 241.5, 241.10, 241.15, and 241.30 and the repeal of §§241.20, 241.25, and 241.40 are adopted without changes to the proposed text as published in the May 1, 2009, issue of the *Texas Register* (34 TexReg 2654) and will not be republished. New §241.20 and §241.25 are adopted with changes to the proposed text as published in the May 1, 2009, issue. The sections provide for rules that establish requirements for the issuance and renewal of the principal certificate.

The adopted revisions to 19 TAC Chapter 241 update the rules to reflect current law and add specificity to educator preparation and certification requirements relating to the principal certificate. The adopted amendments, repeals, and new sections result from the SBEC's rule review conducted in accordance with Texas Government Code, §2001.039.

The adopted revisions reflect discussions held during the February 26, 2009, stakeholder meeting. Following is a description of the adopted changes.

Language in 19 TAC §241.1(d) was amended to clarify that a principal certificate holder may serve as principal or assistant principal in a Texas public school.

Language was amended in 19 TAC §241.5(a) to clarify that the accrediting organization must be recognized by the Texas Higher Education Coordinating Board. This change was also adopted in new §241.20(2). Language in §241.5(d) was deleted and moved to §241.10(c) with no substantive rule text changes.

Language was added in 19 TAC §241.15(d)(5) to clarify that the evaluation processes are appropriate to the position held. Also, language was added in subsection (h)(3) to include guidance and counseling programs and services.

Current 19 TAC §241.20 was repealed and reorganized as new §241.25 with no substantive rule text changes. Since published as proposed, subsection (b) referring to the principal assessment was deleted due to the repeal of its statutory authority, TEC, §21.054(b), by House Bill (HB) 200, 81st Texas Legislature, 2009. HB 200 was signed by the Governor on June 19, 2009.

Current 19 TAC §241.25 was repealed and reorganized as new §241.20 and updated to require a valid classroom teaching certificate for the issuance of a standard principal certificate in new paragraph (3). References to SBEC rules that include preparation program requirements were also updated in new paragraph (5). In response to public comment received on proposed new 19 TAC §241.20, Requirements for the Issuance of the Standard Principal Certificate, language was added in paragraph (2) to clarify that a candidate is required to hold, at a minimum, a master's degree.

Language was amended in 19 TAC §241.30 to add specificity regarding continuing professional education hours in new subsection (b). Current subsection (f) was updated and reorganized as new subsection (c) to clarify that voluntary compliance with §241.30 is allowed for holders of certificates issued prior to September 1, 1999. Current §241.30(b)-(e) was deleted since the provisions are obsolete.

Section 241.40 was repealed because all the implementation dates occurred over six years ago and thus are no longer relevant.

Technical Changes

Throughout Chapter 241, grammatical and technical changes were made such as replacing the term "district" with the term "school district" and the term "program" or "preparation program" with the term "educator preparation program." Also, statutory citation references were updated and standardized to reflect current law and *Texas Register* formatting requirements. Sections were also restructured for consistency and readability. In addition, references to other SBEC rules were updated and/or added as part of the adopted revisions to Chapter 241. For example, language in 19 TAC §241.5(c) was amended to add a reference to 19 TAC Chapter 227, Provisions for Educator Preparation Candidates. Language in §241.10(a) was amended to add a reference to 19 TAC Chapter 228, Requirements for Educator Preparation Programs.

The adopted rule actions have no procedural and reporting implications. Also, the adopted rule actions have no locally maintained paperwork requirements.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The following comments were received regarding the proposed revisions.

Comment: An individual commented that principals should be required to hold a master's degree from an accredited four-year university, just as counselors do, as well as be required to teach in a public classroom for at least three years before beginning the degree.

Board Response: The SBEC agreed with requiring a master's degree and took action to adopt, subject to State Board of Education (SBOE) review, the rules with changes since published as proposed. New 19 TAC §241.20 continues to require a candidate to hold a master's degree. The SBEC disagreed with requiring three years of teaching experience. The language in new §241.20 continues to require two creditable years of teaching experience as a classroom teacher and allows flexibility to small and rural school districts that have difficulties filling administrator positions. For employment purposes, school districts have the authority to require additional years of teaching experience.

Comment: The Texas Counseling Association (TCA) commented that the TCA supports the revisions to Chapter 241, Principal Certificate, and particularly the revisions to §241.15(d)(5) and (h)(3).

Board Response: The SBEC agreed and took action to adopt, subject to SBOE review, the rules with changes since published as proposed.

Comment: A school counselor commented that principals need to understand and properly evaluate the role of the school counselor. The school counselor also expressed thanks to the SBEC for including recommendations from the TCA in the certification standards for Learner-Centered Instructional Leadership and Management.

Board Response: The SBEC agreed and took action to adopt, subject to SBOE review, the rules with changes since published as proposed.

Comment: The Texas Elementary Principals and Supervisors Association (TEPSA) commented that language should be revised in §241.20(2) to include the phrase "or higher or equivalent." The TEPSA stated that some doctoral programs bypass the master's degree, and that out-of-country principals may hold degrees equivalent to a master's degree.

Board Response: The SBEC agreed and took action to adopt, subject to SBOE review, the rule with changes in new 19 TAC §241.20(2) to clarify that a candidate is required to hold, at a minimum, a master's degree.

The SBOE took no action on the review of the amendments to 19 TAC §§241.1, 241.5, 241.10, 241.15, and 241.30; the repeal of §§241.20, 241.25, and 241.40; and new §241.20 and §241.25 at the September 18, 2009, SBOE meeting.

19 TAC §§241.1, 241.5, 241.10, 241.15, 241.20, 241.25, 241.30

The amendments and new sections are adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.046(b), which states that the qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements; §21.046(c), which states that because an effective principal is essential to school improvement, the SBEC shall ensure that each candidate for certification as a principal is of the highest caliber and that multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success; and §21.046(d), which states that in creating the qualifications for certification as a principal, the SBEC shall consider

the knowledge, skills, and proficiencies for principals as developed by relevant national organizations and the State Board of Education.

The adopted amendments and new sections implement the TEC, §§21.003(a), 21.041(b)(2)-(4), and 21.046(b)-(d).

§241.20. Requirements for the Issuance of the Standard Principal Certificate.

To be eligible to receive the standard Principal Certificate, a candidate must:

(1) successfully complete the appropriate examinations required under Chapter 230, Subchapter B, of this title (relating to Assessment of Educators);

(2) hold, at a minimum, a master's degree from an accredited institution of higher education that at the time was accredited or otherwise approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board;

(3) hold a valid classroom teaching certificate;

(4) have two creditable years of teaching experience as a classroom teacher, as defined in Chapter 153, Subchapter CC, of this title (relating to Commissioner's Rules on Creditable Years of Service) and the Texas Education Code, §5.001(2); and

(5) successfully complete a principal preparation program that meets the requirements of §241.10 of this title (relating to Preparation Program Requirements), §241.15 of this title (relating to Standards Required for the Principal Certificate), Chapter 227 of this title (relating to Provisions for Educator Preparation Candidates), and Chapter 228 of this title (relating to Requirements for Educator Preparation Programs).

§241.25. Requirements for the First-Time Principal in Texas.

(a) A principal or assistant principal employed for the first-time as a campus administrator (including the first time in the state) shall participate in an induction period of at least one year.

(b) The induction period should be a structured, systemic process for assisting the new principal or assistant principal in further developing skills in guiding the everyday operation of a school, adjusting to the particular culture of a school district, and developing a personal awareness of self in the campus administrator role. Mentoring support must be an integral component of the induction period.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904448

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



19 TAC §§241.20, 241.25, 241.40

The repeals are adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician,

or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; §21.046(b), which states that the qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements; §21.046(c), which states that because an effective principal is essential to school improvement, the SBEC shall ensure that each candidate for certification as a principal is of the highest caliber and that multi-level screening processes, validated comprehensive assessment programs, and flexible internships with successful mentors exist to determine whether a candidate for certification as a principal possesses the essential knowledge, skills, and leadership capabilities necessary for success; and §21.046(d), which states that in creating the qualifications for certification as a principal, the SBEC shall consider the knowledge, skills, and proficiencies for principals as developed by relevant national organizations and the State Board of Education.

The adopted repeals implement the TEC, §§21.003(a), 21.041(b)(2)-(4), and 21.046(b)-(d).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904449

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



CHAPTER 242. SUPERINTENDENT CERTIFICATE

The State Board for Educator Certification (SBEC) adopts new §242.1, amendments to §§242.5, 242.10, 242.15, 242.20, 242.25, and 242.30, and the repeal of §242.35, concerning provisions for the superintendent certificate. New §242.1, amendments to §§242.5, 242.10, 242.15, 242.20, 242.25, and 242.30, and the repeal of §242.35 are adopted without changes to the proposed text as published in the May 1, 2009, issue of the *Texas Register* (34 TexReg 2660) and will not be republished. The sections provide for rules that establish requirements for the issuance and renewal of the superintendent certificate.

The adopted revisions to 19 TAC Chapter 242 update the rules to reflect current law and add specificity to educator preparation and certification requirements relating to the superintendent certificate. The adopted new section, amendments, and repeal re-

sult from the SBEC's rule review conducted in accordance with Texas Government Code, §2001.039.

The adopted revisions reflect discussions held during the February 26, 2009, stakeholder meeting. Following is a description of the adopted changes.

New 19 TAC §242.1 was added to address the critical role of the superintendent, professional development, and positions in which the holder of the superintendent certificate may serve. The addition of this new section is consistent with 19 TAC Chapter 241, Principal Certificate.

Section 242.5 was reorganized, and language was added to specify that, at a minimum, a master's degree be required. The adopted change also specifies that the degree must be from an accredited institution of higher education that, at that time, was accredited or approved by an accrediting organization recognized by the Texas Higher Education Coordinating Board. In addition, language that allows for the substitution of experience and/or professional training for part of the preparation requirements in current subsection (c) was moved to §242.10 as new subsection (c).

Language was added in §242.15 to clarify in subsection (a) that the standards be the basis for the requirements in §242.30, to clarify in subsection (d)(6) that the evaluation processes be appropriate to the position held, to include guidance and counseling programs and services in subsection (i)(5), and to clarify that superintendent learner-centered activities be at the school district level.

Current 19 TAC §242.20 was amended to further clarify the requirements for a superintendent certificate. The section title was also amended for clarification.

Section 242.30 was reorganized to clarify the requirements for the renewal of a superintendent certificate. Current subsection (d) was deleted since the provision is obsolete. The section title was amended for clarification.

Section 242.35 was repealed because the implementation dates occurred over eight years ago and thus are no longer relevant.

Technical Changes

Throughout Chapter 242, numerous grammatical and technical changes were made where appropriate. Also, statutory citation references were updated and standardized to reflect current law and *Texas Register* formatting requirements. Sections were also restructured for consistency and readability.

The adopted rule actions have no procedural and reporting implications. Also, the adopted rule actions have no locally maintained paperwork requirements.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

The following comments were received regarding the proposed revisions.

Comment: An individual commented that superintendents should be required to hold a master's degree from an accredited four-year university, just as counselors do, as well as be required to teach in a public classroom for at least three years before beginning the degree.

Board Response: The SBEC agreed with requiring a master's degree and took action to adopt, subject to State Board of Education (SBOE) review, the revisions, maintaining the language as published as proposed. The amendments to 19 TAC §242.5, Minimum Requirements for Admission to a Superintendent Preparation Program, and §242.20, Requirements for the Standard Superintendent Certificate, continue to require a candidate to hold, at a minimum, a master's degree. The SBEC disagreed with requiring three years of teaching experience and took action to adopt, subject to SBOE review, the revisions, maintaining the language as published as proposed. The language in §242.20 continues to require a candidate to hold, at a minimum, a principal certificate or the equivalent, which requires two creditable years of teaching experience as a classroom teacher.

Comment: The Texas Counseling Association (TCA) commented that the TCA supports the revisions to Chapter 242, Superintendent Certificate, and particularly the revisions to §242.15(d)(6) and (i)(5).

Board Response: The SBEC agreed and took action to adopt, subject to SBOE review, the revisions, maintaining the language as published as proposed.

Comment: A school counselor commented that superintendents need to understand and properly evaluate the role of the school counselor. The school counselor also expressed thanks to the SBEC for including recommendations from the TCA in the certification standards for Learner-Centered Instructional Leadership and Management.

Board Response: The SBEC agreed and took action to adopt, subject to SBOE review, the revisions, maintaining the language as published as proposed.

The SBOE took no action on the review of new 19 TAC §242.1, amendments to §§242.5, 242.10, 242.15, 242.20, 242.25, and 242.30, and the repeal of §242.35 at the September 18, 2009, SBOE meeting.

19 TAC §§242.1, 242.5, 242.10, 242.15, 242.20, 242.25, 242.30

The new section and amendments are adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the SBEC to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and §21.046(a), which states that the qualifications for superintendent must permit a candidate for certification to substitute management training or experience for part of the educational experience.

The adopted new section and amendments implement the TEC, §§21.003(a), 21.041(b)(2)-(4), and 21.046(a).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904450

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



19 TAC §242.35

The repeal is adopted under the Texas Education Code (TEC), §21.003(a), which states that a person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by the TEC, Chapter 21, Subchapter B; §21.041(b)(2), which requires the State Board for Educator Certification (SBEC) to propose rules that specify the classes of educator certificates to be issued, including emergency certificates; §21.041(b)(3), which requires the SBEC to propose rules that specify the period for which each class of educator certificate is valid; §21.041(b)(4), which requires the SBEC to propose rules that specify the requirements for the issuance and renewal of an educator certificate; and §21.046(a), which states that the qualifications for superintendent must permit a candidate for certification to substitute management training or experience for part of the educational experience.

The adopted repeal implements the TEC, §§21.003(a), 21.041(b)(2)-(4), and 21.046(a).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904451

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

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Proposal publication date: May 1, 2009

For further information, please call: (512) 475-1497



CHAPTER 249. DISCIPLINARY PROCEEDINGS, SANCTIONS, AND CONTESTED CASES

SUBCHAPTER B. ENFORCEMENT ACTIONS AND GUIDELINES

19 TAC §249.14

The State Board for Educator Certification (SBEC) adopts an amendment to §249.14, concerning enforcement actions and guidelines. The amendment to §249.14 is adopted without changes to the proposed text as published in the May 1, 2009, issue of the *Texas Register* (34 TexReg 2665) and will not be

republished. The section establishes requirements for complaints, required reporting, investigations, investigative notices, and the filing of petitions.

The adopted amendment modifies the description of circumstances requiring a superintendent to report alleged misconduct of an educator who resigns from a school district, the minimum requirements of a superintendent's report, and the requirements for a school district to request that the Texas Education Agency (TEA) pursue sanctions against an educator who has abandoned his or her contract in violation of the Texas Education Code (TEC), §§21.105(c)(2), 21.160(c)(2), or 21.210(c)(2).

The TEC, §21.041(b)(7), authorizes the SBEC to adopt rules that provide for disciplinary proceedings for certificate holders.

One of the legislative priorities of the SBEC Legislative Committee for the 81st Texas Legislative Session was to broaden the circumstances under which a report of alleged educator misconduct is required by the TEC, §21.006. Therefore, a provision was added to 19 TAC §249.14(d) that covers any such additional circumstances under the TEC, §21.006.

A 2006 Third Court of Appeals decision interpreted the meaning of the TEC, §21.355, provision that "a document evaluating the performance of a teacher or administrator is confidential" to include not just formal appraisals but also any document that reflects an administrator's judgment of an educator's actions. Subsequent letter rulings by the Attorney General Open Records Division held that the confidentiality applies even to the SBEC and the TEA staff investigating allegations of educator misconduct. At this time, neither the TEA nor the SBEC has authority to issue an administrative subpoena to obtain withheld documents unless there is other evidence that would support a formal petition for sanctions. As a result, TEA staff investigators have been unable to investigate reports of serious allegations of educator misconduct because school district reports often do not contain detailed factual allegations and do not identify victims or witnesses, while the school districts' records related to alleged misconduct have been withheld as confidential appraisals. Therefore, language was added to 19 TAC §249.14(e), as authorized by the TEC, §21.006(c)(2), to specify that reports of educator misconduct shall contain detailed factual allegations and the identity of victims and witnesses to allow such allegations to be adequately investigated.

Difficulties have arisen in the interpretation of 19 TAC §249.14(f), relating to the requirement that a school district submit to the TEA staff a written complaint for an educator's abandonment of a TEC, Chapter 21 contract "within 30 calendar days after the educator separates from employment." This has been especially problematic when the educator's resignation has not been accepted by the school district, resulting in the necessity of contested case hearings to resolve this single issue. Therefore, language was also modified in 19 TAC §249.14(f) to specify a more definite date from which the 30-calendar day deadline begins and to specify that the school district finding of lack of good cause to resign is not binding in a contested case hearing.

The adopted amendment has no new procedural and reporting implications to school districts and educators. Also, the adopted amendment has no new locally maintained paperwork requirements to school districts and educators.

There is no direct adverse economic impact for small businesses and microbusinesses; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

No comments were received regarding the proposed amendment.

The State Board of Education (SBOE) took no action on the review of the amendment to 19 TAC §249.14 at the September 18, 2009, SBOE meeting.

The amendment is adopted under the Texas Education Code (TEC), §21.006(g), which authorizes the SBEC to propose rules as necessary to implement requirements for reporting educator misconduct; §21.041(b)(1), which requires the SBEC to propose rules that provide for the regulation of educators and the general administration of the TEC, Chapter 21, Subchapter B, in a manner consistent with the TEC, Chapter 21, Subchapter B; §21.041(b)(7), which requires the SBEC to propose rules that provide for disciplinary proceedings, including the suspension or revocation of an educator certificate, as provided by Texas Government Code, Chapter 2001; §21.105(c), which allows the SBEC to impose sanctions against a teacher employed under a probationary contract; §21.160(c), which allows the SBEC to impose sanctions against a teacher employed under a continuing contract; and §21.210(c), which allows the SBEC to impose sanctions against a teacher employed under a term contract.

The adopted amendment implements the TEC, §§21.006(g), 21.041(b)(1) and (7), 21.105(c), 21.160(c), and 21.210(c).

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 5, 2009.

TRD-200904452

Jerel Booker

Associate Commissioner, Educator Quality and Standards, Texas Education Agency

State Board for Educator Certification

Effective date: October 25, 2009

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For further information, please call: (512) 475-1497



TITLE 28. INSURANCE

PART 1. TEXAS DEPARTMENT OF INSURANCE

CHAPTER 34. STATE FIRE MARSHAL SUBCHAPTER C. STANDARDS FOR STATE FIRE MARSHAL INSPECTIONS

28 TAC §34.303

The Commissioner of Insurance adopts an amendment to §34.303, concerning standards for State Fire Marshal inspections of buildings and premises in certain geographic areas of Texas. The amendment is adopted without changes to the proposed text published in the August 21, 2009, issue of the *Texas Register* (34 TexReg 5647).

REASONED JUSTIFICATION. The adopted amendment is necessary to update the currently adopted Life Safety Code, which is used by the State Fire Marshal as standards for inspection of buildings and premises pursuant to Government Code §417.008. Section 417.008 authorizes the State Fire Marshal

to enter, upon the complaint of any person, any building or premises in the state at any reasonable time to examine the structure for certain dangerous conditions. The Government Code §417.008 authorizes the Commissioner to adopt by rule any appropriate standard developed by a nationally recognized standards-making association under which the State Fire Marshal may enforce §417.008. The standards adopted by rule do not apply in a geographic area under the jurisdiction of a local government that has adopted fire protection ordinances that apply in the geographic area. Additionally, the Government Code §417.005 authorizes the Commissioner, after consulting with the State Fire Marshal, to adopt necessary rules to guide the State Fire Marshal and fire and arson investigators commissioned by the State Fire Marshal in the investigation of arson, fire, and suspected arson and in the performance of other duties for the Commissioner. Adopted §34.303, which adopts by reference certain standards and recommendations of the National Fire Protection Association (NFPA), is amended to update the previously adopted 2006 Life Safety Code to the 2009 version. The adoption of the most recent Life Safety Code is necessary because as the technology for fire protection and prevention develops, the minimum standards of inspection also change. The NFPA is a nationally recognized standards-making association that classifies the most recent Life Safety Code as the minimum standards for fire protection and prevention, and as such, these standards also constitute the minimum standards for inspection for potential fire dangers. This results in better protection of the public from fire by the application of the most recent standards and recommendations for inspection. Additionally, other units of government in Texas are adopting these standards, and uniformity of standards enables both the fire protection industry and the public to know what standards are applicable in all jurisdictions. The NFPA Life Safety Code 101-2009 adopts changes to the 2006 standards to: (i) add provisions relating to air traffic control towers, electrically controlled egress doors, certain horizontal sliding doors, elevator lobby access door locking, door inspection and maintenance, emergency evacuations and escape devices and systems, the placement and usage of alcohol-based hand sanitizer in educational and day care settings, and door locking in settings where occupants need specialized protection; (ii) standardize the usage of certain technical terms, including *stories in height*, *finished ground level*, *grade plane*, *basement*, and *level of exit discharge*; (iii) revise the situations in which public address systems are acceptable for occupant alarm notification; and (iv) amend provisions relating to fire curtains, patient sleeping room windows in health care settings, and sprinkler requirements in high-rise health care settings. As provided in §417.008(e) of the Government Code, these adopted changes in standards do not apply in a geographic area under the jurisdiction of a local government that has adopted fire protection ordinances that apply in the geographic area.

HOW THE SECTION WILL FUNCTION. The adopted section updates the currently adopted Life Safety Code, which is used by the State Fire Marshal as standards for inspection of buildings and premises pursuant to Government Code §417.008. The adopted section adopts by reference the National Fire Protection Association Life Safety Code 101-2009.

SUMMARY OF COMMENTS. The Department did not receive any comments on the published proposal.

STATUTORY AUTHORITY. The amendment is adopted pursuant to the Government Code §417.008 and §417.005 and the Insurance Code §36.001. The Government Code §417.008

authorizes the Commissioner to adopt by rule any appropriate standard developed by a nationally recognized standards-making association under which the State Fire Marshal may enforce §417.008, relating to the State Fire Marshal's right of entry and examination and correction of dangerous conditions; the standards adopted by rule do not apply in a geographic area under the jurisdiction of a local government that has adopted fire protection ordinances that apply in the geographic area. The Government Code §417.005 authorizes the Commissioner, after consulting with the State Fire Marshal, to adopt necessary rules to guide the State Fire Marshal and fire and arson investigators commissioned by the State Fire Marshal in the investigation of arson, fire, and suspected arson and in the performance of other duties for the Commissioner. The Insurance Code §36.001 provides that the Commissioner of Insurance may adopt any rules necessary and appropriate to implement the powers and duties of the Texas Department of Insurance under the Insurance Code and other laws of this state.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on October 2, 2009, 2009.

TRD-200904429

Gene C. Jarmon

General Counsel and Chief Clerk

Texas Department of Insurance

Effective date: October 22, 2009

Proposal publication date: August 21, 2009

For further information, please call: (512) 463-6327



TITLE 34. PUBLIC FINANCE

PART 1. COMPTROLLER OF PUBLIC ACCOUNTS

CHAPTER 12. ECONOMIC GROWTH

The Comptroller of Public Accounts (comptroller) adopts new Chapter 12, concerning Economic Growth, to provide the procedures for creating advisory committees on economic growth and endangered species act compliance. Sections 12.1, 12.51, 12.53 and 12.54 are adopted without changes to the proposed text as published in the July 31, 2009, issue of the *Texas Register* (34 TexReg 5045) and will not be republished. Section 12.52 is adopted with a grammatical change to §12.52(d) changing the word "appointment" to "appoint" and will be republished.

New Chapter 12 is necessary to implement Senate Bill 2534, 81st Legislature, 2009, authorizing the comptroller to create advisory boards as deemed necessary to assist the new Interagency Task Force on Economic Growth and Endangered Species. The new rules will be published as Texas Administrative Code, Title 34, Part 1, Chapter 12, new Subchapter A, §12.1, concerning General Definitions; and Subchapter B, §§12.51 - 12.54, concerning Definitions, Advisory Board Creation, Purpose and Composition, Meetings and General Advisory Board Responsibilities. Senate Bill 2534, 81st Legislature, 2009, declares as its purpose to establish mechanisms for state agencies to assist local communities engaged in economic

development activities to comply with endangered species laws and regulations. It creates a task force of state agencies with experience in supporting economic growth and compliance with endangered species laws and regulations. Further, it authorizes the comptroller to create advisory committees to advise the task force regarding the economic development issues that specifically relate to local communities in their efforts to comply with endangered species laws and regulations.

No comments were received regarding adoption of the new rules.

SUBCHAPTER A. GENERAL DEFINITIONS

34 TAC §12.1

The new subchapter is authorized under Government Code, §2110.005, which provides that a state agency that creates an advisory committee shall adopt rules to state the purpose and tasks of the committee and that describe the reporting requirements of the committee.

The new subchapter implements Government Code, §490E.005, which authorizes the comptroller to establish advisory committees to assist the task force on economic growth and endangered species in its work.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 28, 2009.

TRD-200904386

Ashley Harden

Chief Deputy General Counsel

Comptroller of Public Accounts

Effective date: October 18, 2009

Proposal publication date: July 31, 2009

For further information, please call: (512) 475-0387



SUBCHAPTER B. ADVISORY COMMITTEES

34 TAC §§12.51 - 12.54

The new subchapter is authorized under Government Code, §2110.005, which provides that a state agency that creates an advisory committee shall adopt rules to state the purpose and tasks of the committee and that describe the reporting requirements of the committee.

The new subchapter implements Government Code, §490E.005, which authorizes the comptroller to establish advisory committees to assist the task force on economic growth and endangered species in its work.

§12.52. *Advisory Board Creation, Purpose and Composition.*

(a) With the advice of the task force, the comptroller may create advisory committees to assist the task force with its work. The

comptroller may prepare and provide to the task force an advisory committee framework statement that identifies:

- (1) the purpose and task of the advisory committee;
- (2) the geographic area which will be the focus of an advisory committee;
- (3) proposed members to the advisory committee in accord with subsection (b) of this section, identifying one of such members to serve as interim presiding officer;
- (4) the method and time for the advisory committee to submit its recommendations to the comptroller and task force;
- (5) timelines for the completion of work of the committee; and
- (6) any other matter that the comptroller determines to be necessary or appropriate.

(b) The comptroller shall propose members for the advisory committee that provide the balance necessary to address economic, environmental, and policy issues related to the specific issue or action under consideration by selecting of the total number of committee members:

- (1) one-third of the members to be representatives of affected landowners;
- (2) one-third of the members to be representatives of conservation interests; and
- (3) one-third of the members to be representatives of municipalities or other affected jurisdictions.

(c) The comptroller may prepare an advisory committee framework with such amendments as deemed appropriate and send the framework to each selected committee member as an appointment to serve on the committee. The comptroller may amend the advisory committee framework at any time.

(d) In the event of a permanent vacancy occurring on the committee at any time, the comptroller may appoint a replacement consistent with subsection (b) of this section.

This agency hereby certifies that the adoption has been reviewed by legal counsel and found to be a valid exercise of the agency's legal authority.

Filed with the Office of the Secretary of State on September 28, 2009.

TRD-200904387

Ashley Harden

Chief Deputy General Counsel

Comptroller of Public Accounts

Effective date: October 18, 2009

Proposal publication date: July 31, 2009

For further information, please call: (512) 475-0387



TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word "Figure" followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 34 TAC §3.438(c)(4)

Example:

Transactions:

Date	Buyer A	Buyer B	Buyer C
July 5	5,000 gal.	10,000 gal.	10,000 gal.
July 10	2,500 gal.	10,000 gal.	10,000 gal.
July 15	2,500 gal.		2,500 gal.
July 20	3,000 gal.		

The sale to Buyer A on July 20 is not taxable because it is the sale that caused the 10,000 gallon limit to be exceeded. The sale on July 10 to Buyer B is not taxable because it is the sale that caused the 10,000 gallon limit to be exceeded. The sale to Buyer C on July 15 is taxable because the 10,000 gallon limit was exceeded with the purchase on July 10.

IN ADDITION

The *Texas Register* is required by statute to publish certain documents, including applications to purchase control of state banks, notices of rate ceilings issued by the Office of Consumer Credit Commissioner, and consultant proposal requests and awards. State agencies also may publish other notices of general interest as space permits.

Texas State Affordable Housing Corporation

Notice of the Implementation of a 2010A Qualified Mortgage Credit Certificate Program

The Texas State Affordable Housing Corporation (the Corporation), a nonprofit corporation organized under the laws of the State of Texas (the Program Area), is implementing a qualified mortgage credit certificate program (the Program) within the Program Area to assist eligible purchasers. A Mortgage Credit Certificate (MCC) is an instrument designed to assist persons better afford home ownership. The MCC Program allows first-time homebuyers an annual federal income tax credit equal to the lesser of \$2,000 or the credit rate for the MCC multiplied by the amount of interest paid by the holder on a home mortgage loan during each year that they occupy the home as their principal residence. An eligible purchaser of a residence located within a Program Area may apply to the Corporation for an MCC through a participating lender of his or her choice at the time of purchasing a principal residence and obtaining a mortgage loan from a participating lender. To be an eligible purchaser to receive an MCC, a purchaser must meet the following criteria:

- (1) Be one of the following:
 - (a) A household whose annual income does not exceed 80% Area Median Family Income (AMFI); or
 - (b) A full-time Texas classroom teacher, teacher's aide, school librarian, school nurse, school counselor, or an allied health or nursing faculty member; or
 - (c) A full-time paid fire fighter, peace officer, corrections officer, juvenile corrections officer, county jailer, EMS personnel, or public security officer, working in the State of Texas.
- (2) The applicant for the MCC cannot have had an ownership interest in his or her principal residence during the three-year period ending on the date the mortgage loan is obtained.
- (3) The applicant must intend to occupy the residence with respect to which the MCC is obtained as his or her principal residence within 60 days after the MCC is issued. The MCC issued to an applicant will be revoked if the residence to which the MCC relates ceases to be occupied by the applicant as his or her principal residence.
- (4) The MCC cannot be issued to an applicant in conjunction with the replacement or refinancing of an existing mortgage loan. The MCC can, however, be obtained in conjunction with the replacement of a construction period or bridge loan having a term of less than 24 months.
- (5) Federal law imposes limitations on the purchase price of homes financed under the program. The current maximum purchase price for a one-family home in a non-targeted area is \$258,691 and for a one-family home in a targeted area is \$316,177. These limitations are periodically adjusted. Two-family, three-family and four-family residences are also eligible, provided that one of the units will be occupied by the mortgagor as his or her principal residence and that the residence was first occupied for residential purposes at least five years prior to the closing of the mortgage. The cost of the residence must not exceed

the maximum purchase price limits. The purchase price limitation does not apply to qualified home improvement loans. There are special rules that apply to qualified rehabilitation loans.

(6) Additionally, an applicant's current annualized family income may not exceed 80% of the AMFI if the eligible purchaser is a purchaser listed under (1)(a) above or the greater of 115% of the AMFI adjusted for family size or the maximum amount permitted by §143(f) of the Internal Revenue Code of 1986 if the purchaser is a purchaser listed under (1)(b) or (1)(c) above. Visit tsahc.org to view the maximum incomes allowed.

Anyone receiving an MCC and selling his or her residence within nine years of the issuance of the MCC may be required to return all or a portion of the tax credit received in connection therewith to the Internal Revenue Service.

To defray the costs of implementing the Program, the Corporation will charge applicants a \$100 application fee, a \$250 closing package review fee, plus an MCC issuance fee equal to one percent of the amount of such person's loan.

The Corporation strongly encourages anyone who believes that he or she qualifies for an MCC to apply at the offices of a participating lender. For more information regarding the Program and its restrictions, including a list of current participating lenders, please contact the Paige McGilloway, Single Family Programs Manager, at (888) 638-3555 or by email at pmcgilloway@tsahc.org.

TRD-200904495

David Long
President

Texas State Affordable Housing Corporation
Filed: October 6, 2009

Department of Aging and Disability Services

Notice - Procurement of Services by Area Agencies on Aging

The Department of Aging and Disability Services' Access and Intake Division - Area Agencies on Aging Section oversees the delivery of Older Americans Act services for individuals 60 years of age and older, their family members, and other caregivers through contracts with area agencies on aging located throughout the state. These 28 area agencies on aging are currently seeking qualified entities to provide services such as: Congregate Meals, Home Delivered Meals, Transportation, Personal Assistance, Homemaker, and Caregiver, as well as other related services. Parties interested in providing services must contact the area agency on aging operating within their service area to obtain information relating to vendor open enrollment, requests for proposals (RFP), the contracting process, the types of services being considered, and the actual funding available.

Identified in the comprehensive list are all area agencies on aging, contact information, addresses, telephone numbers, and service areas:

Area Agencies on Aging

9/30/2009

Area Agency on Aging of the Alamo Area

8700 Tesoro, Suite 700; San Antonio, Texas 78217-6228

Ph: 210-362-5200 1-866-231-4922 Fax: 210-225-5937

AAA Director:

Ms. Deborah Billa, Director

dbilla@aacog.com

Alamo Area Council of Governments

Ms. Gloria C. Arriaga, Executive Director

garriaga@aacog.com

Counties Served

Atascoca, Bandera, Comal, Frio, Gillespie, Guadalupe; Karnes, Kendall, Kerr, Medina, Wilson

Area Agency on Aging of Ark-Tex

4808 Elizabeth St.; Texarkana, Texas 75503

Ph: 903-832-8636 1-800-372-4464 Fax: 903-832-3441

AAA Director:

Ms. Diane McKinnon, Manager

dmckinnon@atcog.org

Ark-Tex Council of Governments

Mr. L.D. Williamson, Executive Director

ldwilliamson@atcog.org

Counties Served

Bowie, Cass, Delta, Franklin, Hopkins, Lamar, Morris, Red River, Titus

Area Agency on Aging of Bexar County

8700 Tesoro, Suite 700; San Antonio, Texas 78217-6228

Ph: 210-362-5254 1-800-960-5201 Fax: 210-225-5937

AAA Director:

Dr. Martha Spinks, Director

mspinks@aacog.com

Alamo Area Council of Governments

Ms. Gloria C. Arriaga, Executive Director

garriaga@aacog.com

Counties Served

Bexar

Area Agency on Aging of Brazos Valley

3991 E. 29th; Bryan, Texas 77802

Ph: 979-595-2806 1-800-994-4000 Fax: 979-595-2810

AAA Director:

Mr. Ronnie Gipson, Director

rgipson@bvcog.org

Brazos Valley Council of Governments

Mr. Tom M. Wilkinson, Jr., Executive Direc

twilkinson@bvcog.org

Counties Served

Brazos, Burleson, Grimes, Leon, Madison, Robertson, Washington

Area Agency on Aging of the Capital Area

6800 Burleson Rd. Bldg. 310, Suite 165; Austin, Texas 78744

Ph: 512-916-6062 1-888-622-9111 Fax: 512-916-6042

AAA Director:

Ms. Glenda Rogers, Director

grogers@capcog.org

Capital Area Council of Governments

Ms. Betty Voights, Executive Director

bvoights@capcog.org

Counties Served

Bastrop, Blanco, Burnet, Caldwell, Fayette, Hays, Lee, Llano, Travis, Williamson

Area Agencies on Aging

9/30/2009

Area Agency on Aging of Central Texas

2180 North Main Street; Belton, Texas 76513-1919

Ph: 254-770-2330 1-800-447-7169 Fax: 252-770-2349

AAA Director:

Mr. H. Richard McGhee, Director

richard.mcghee@ctcog.org

Central Texas Council of Governments

Mr. Jim Reed, Executive Director

jreed@ctcog.org

Counties Served

Bell, Coryell, Hamilton, Lampasas, Milam, Mills, San Saba

Area Agency on Aging of the Coastal Bend

2910 Leopard; Corpus Christi, Texas 78408-3614

Ph: 361-883-3935 1-800-817-5743 Fax: 361-883-5749

AAA Director:

Ms. Betty Lamb, Director

betty@cbcogaaa.org

Coastal Bend Council of Governments

Mr. John P. Buckner, Executive Director

john@cbcog98.org

Counties Served

Aransas, Bee, Brooks, Duval, Jim Wells, Kenedy, Kleberg, Live Oak, McMullen, Nueces, Refugio, San Patricio

Area Agency on Aging of Concho Valley

2801 W. Loop 306; San Angelo, Texas 76904

Ph: 325-223-5704 1-877-944-9666 Fax: 325-223-8233

AAA Director:

Ms. Rosie Quintela, Director

rosie@cvcog.org

Concho Valley Council of Governments

Mr. Jeffrey K. Sutton, Executive Director

jsutton@cvcog.org

Counties Served

Coke, Concho, Crockett, Irion, Kimble, Mason, McCulloch, Menard, Reagan, Schleicher, Sterling, Sutton, Tom Green

Area Agency on Aging of Dallas County

1349 Empire Central, Suite 400; Dallas, Texas 75247

Ph: 214-871-5065 1-800-548-1873 Fax: 214-871-7442

AAA Director:

Ms. Monita McGhee, Director

mmcghee@ccgd.org

Community Council of Greater Dallas

Ms. Martha Blaine, Executive Director

mblaine@ccgd.org

Counties Served

Dallas

Area Agency on Aging of Deep East Texas

210 Premier Drive; Jasper, Texas 75951

Ph: 409-384-7614 1-800-435-3377 Fax: 409-384-5390

AAA Director:

Ms. Holly Anderson, Director

handerson@detcog.org

Deep East Texas Council of Governments

Mr. Walter Diggles, Executive Director

wdiggles@detcog.org

Counties Served

Angelina, Houston, Jasper, Nacogdoches, Newton, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity, Tyler

Area Agencies on Aging

9/30/2009

Area Agency on Aging of East Texas

3800 Stone Road; Kilgore, Texas 75662

Ph: 903-984-8641 1-800-442-8845

Fax: 903-984-4482

AAA Director:

Mr. Claude I. Andrews, Director

candrews@etcog.org

East Texas Council of Governments

Mr. David Cleveland, Executive Director

david.cleveland@etcog.org

Counties Served

Anderson, Camp, Cherokee, Gregg, Harrison, Henderson, Marion, Panola, Rains, Rusk, Smith, Upshur, VanZandt, Wood

Area Agency on Aging of the Golden Crescent Region

568 Big Bend Drive; Victoria, Texas 77904

Ph: 361-578-1587 1-800-574-9745

Fax: 361-578-8865

AAA Director:

Ms. Cindy Cornish, Director

cindyco@gcrpc.org

Golden Crescent Regional Planning Commission

Mr. Joe E. Brannan, Executive Director

jbrannan@gcrpc.org

Counties Served

Calhoun, DeWitt, Goliad, Gonzales, Jackson, Lavaca, Victoria

Area Agency on Aging of Harris County

8000 North Stadium Drive, 3rd. Floor; Houston, Texas 77054

Ph: 713-794-9001 1-800-213-8471

Fax: 713-794-9238

AAA Director:

Ms. Deborah A. Moore, Director

deborahA.moore@cityofhouston.net

Houston Dept. of Health & Human Services

Stephen Williams, Director

stephen.williams@cityofhouston.net

Counties Served

Harris

Area Agency on Aging of the Heart of Texas

1514 S. New Road; Waco, Texas 76711-1316

Ph: 254-292-1800 1-866-772-9600

Fax: 254-756-0102

AAA Director:

Mr. Gary Luft, Director

gary.luft@hot.cog.tx.us

Heart of Texas Council of Governments

Kenneth L. Simons, Executive Director

ken.simons@hot.cog.tx.us

Counties Served

Bosque, Falls, Freestone, Hill, Limestone, McLennan

Area Agency on Aging of Houston-Galveston

3555 Timmons Ln., Suite 120; Houston, Texas 77027-6468

Ph: 713-627-3200 1-800-437-7396

Fax: 713-993-4578

AAA Director:

Mr. Curtis M. Cooper, Manager

curtis.cooper@h-gac.com

Houston-Galveston Area Council

Mr. Jack Steele, Executive Director

jack.steele@h-gac.com

Counties Served

Austin, Brazoria, Chambers, Colorado, Fort Bend, Galveston, Liberty, Matagorda, Montgomery, Walker, Waller, Wharton

Area Agencies on Aging

9/30/2009

Area Agency on Aging of the Lower Rio Grande Valley

311 N. 15th Street; McAllen, Texas 78501-4705

Ph: 956-682-3481 1-800-365-6131 Fax: 956-682-8852

AAA Director:

Mr. Jose L. Gonzalez, Director

jgonzalez@lrgvdc.org

Lower Rio Grande Valley Development Council

Mr. Kenneth N. Jones, Executive Director

knjones@lrgvdc.org

Counties Served

Cameron, Hidalgo, Willacy

Area Agency on Aging of the Middle Rio Grande Area

307 W. Nopal Street; Carrizo Springs, Texas 78834

Ph: 830-876-3533 1-800-224-4262 Fax: 830-876-9415

AAA Director:

Mr. Conrado Longoria, Jr., Director

conrado.longoria@mrgdc.org

Middle Rio Grande Development Council

Mr. Leodoro Martinez, Executive Director

leodoro.martinez@mrgdc.org

Counties Served

Dimmit, Edwards, Kinney, LaSalle, Maverick, Real, Uvalde, Val Verde, Zavala

Area Agency on Aging of North Central Texas

616 Six Flags Drive; Arlington, Texas 76011

Ph: 817-695-9194 1-800-272-3921 Fax: 817-695-9274

AAA Director:

Ms. Doni Van Ryswyk, Manager

dvanryswyk@nctcog.org

North Central Texas Council of Governments

Mr. Mike Eastland, Executive Director

meastland@nctcog.org

Counties Served

Collin, Denton, Ellis, Erath, Hood, Hunt, Johnson, Kaufman, Navarro, Palo Pinto, Parker, Rockwall, Somervell, Wise

Area Agency on Aging of North Texas

4309 Jacksboro Hwy., Suite 2; Wichita Falls, Texas 76302-2700

Ph: 940-322-5281 1-800-460-2226 Fax: 940-322-6743

AAA Director:

Ms. Rhonda K. Pogue, Director

rpogue@nortexrpc.org

Nortex Regional Planning Commission

Mr. Dennis Wilde, Executive Director

dwilde@nortexrpc.org

Counties Served

Archer, Baylor, Clay, Cottle, Foard, Hardeman, Jack, Montague, Wichita, Wilbarger, Young

Agency on Aging of the Panhandle Area

415 West 8th; Amarillo, Texas 79101-2215

Ph: 806-331-2227 1-800-642-6008 Fax: 806-373-3268

AAA Director:

Ms. Melissa Carter, Director

mcarter@prpc.cog.tx.us

Panhandle Regional Planning Commission

Mr. Gary Pitner, Executive Director

gpitner@theprpc.org

Counties Served

Armstrong, Briscoe, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler

Area Agencies on Aging

9/30/2009

Area Agency on Aging of the Permian Basin

2910 Laforce Blvd.; Midland, Texas 79711-0660

Ph: 432-563-1061 1-800-491-4636 Fax: 432-563-1009

AAA Director:

Ms. Jeannie Raglin, Director

jraglin@aaaapb.com

Permian Basin Regional Planning Commission

Ms. Terri Moore, Executive Director

tmoore@pbrpc.org

Counties Served

Andrews, Borden, Crane, Dawson, Ector, Gaines, Glasscock, Howard, Loving, Martin, Midland, Pecos, Reeves, Terrell, Upton, Ward, Winkler

Agency on Aging of the Rio Grande Area

1100 North Stanton, Suite 610; El Paso, Texas 79902-4155

Ph: 915-533-0998 1-800-333-7082 Fax: 915-544-5402

AAA Director:

Ms. Yvette Lugo, Director

yvettel@riocog.org

Rio Grande Council of Governments

Ms. Annette Gutierrez, Executive Director

annetteg@riocog.org

Counties Served

Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Presidio

Area Agency on Aging of Southeast Texas

2210 Eastex Freeway; Beaumont, Texas 77703

Ph: 409-924-3381 1-800-395-5465 Fax: 409-899-4829

AAA Director:

Ms. Colleen Halliburton, Director

challiburton@setrpc.org

South East Texas Regional Planning Commission

Mr. Shaun Davis, Executive Director

sdavis@setrpc.org

Counties Served

Hardin, Jefferson, Orange

Area Agency on Aging of South Plains

1323 58th Street; Lubbock, Texas 79412-3030

Ph: 806-687-0940 1-888-418-6564 Fax: 806-765-9544

AAA Director:

Ms. Liz Castro, Director

lcastro@spag.org

South Plains Association of Governments

Mr. Tim C. Pierce, Executive Director

tpierce@spag.org

Counties Served

Bailey, Cochran, Crosby, Dickens, Floyd, Garza, Hale, Hockley, King, Lamb, Lubbock, Lynn, Motley, Terry, Yoakum

Area Agency on Aging of South Texas

1002 Dicky Lane; Laredo, Texas 78043

Ph: 956-722-3995 1-800-292-5426 Fax: 956-722-2670

AAA Director:

Mr. Alberto Rivera, Jr., Aging Services

arivera@stdc.cog.tx.us

South Texas Development Council

Mr. Amando Garza, Jr., Executive Director

agarzajr@stdc.cog.tx.us

Counties Served

Jim Hogg, Starr, Webb, Zapata

Area Agencies on Aging

9/30/2009

Area Agency on Aging of Tarrant County

1500 N. Main St. Suite 200; Fort Worth, Texas 76164-0448

Ph: 817-258-8081 1-877-886-4833 Fax: 817-258-8074

AAA Director:

Mr. Don Smith, Director

don.smith@unitedwaytarrant.org

United Way Metropolitan Tarrant County

Ms. Ann Rice, Senior Vice President

ann.rice@unitedwaytarrant.org

Counties Served

Tarrant

Area Agency on Aging of Texoma

1117 Gallagher, Gallagher Bldg., Suite 200; Sherman, Texas 75090

Ph: 903-813-3580 1-800-677-8264 Fax: 903-813-3573

AAA Director:

Mr. Ron Michael, Director

rmichael@texoma.cog.tx.us

Texoma Council of Governments

Dr. Susan B. Thomas, Executive Director

stthomas@texoma.cog.tx.us

Counties Served

Cooke, Fannin, Grayson

Area Agency on Aging of West Central Texas

3702 Loop 322; Abilene, Texas 79602-7300

Ph: 325-672-8544 1-800-928-2262 Fax: 325-675-5214

AAA Director:

Ms. Gail Kaiser, Director

gkaiser@wctcog.org

West Central Texas Council of Governments

Mr. Tom K. Smith, Executive Director

tsmith@wctcog.org

Counties Served

Brown, Callahan, Coleman, Comanche, Eastland, Fisher, Haskell, Jones, Kent, Knox, Mitchell, Nolan, Runnels, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton

Contact the Department of Aging and Disability Services, Access and Intake Division - Area Agencies on Aging Section at (512) 438-4290 for questions about this general notice.

TRD-200904501

Kenneth L. Owens

General Counsel

Department of Aging and Disability Services

Filed: October 7, 2009

Office of the Attorney General

Notice of Amendment and Extension to a Major Consulting Contract

The Office of the Attorney General of Texas (OAG) announces the amendment and extension of contract #08-C0074 with Deloitte Consulting, LLP, an entity with a principal place of business at 400 West 15th Street, Suite 1700, Austin, Texas 78701. Under the amended and extended contract, the contractor will provide "Development and Continuity Assurance" by creating requirements for the OAG approved projects, as well as the continuity necessary from the previous contract terms to enable the OAG to achieve its vision. The contractor will also build a functional prototype of the application and build-out the remaining technical environments necessary to implement the approved recommendations.

The total value of the contract amendment will not exceed \$17,391,798. The contract has been extended to August 31, 2010, unless extended or terminated sooner by the OAG. The contractor must complete and submit all deliverables under the contract to the OAG by August 31, 2010. The contract includes an OAG option for up to a four calendar month extension that can be exercised at OAG's sole discretion.

For information regarding this publication, contact Zindia Thomas, Agency Liaison, at (512) 936-9901.

TRD-200904493

Stacey Napier

Deputy Attorney General

Office of the Attorney General

Filed: October 6, 2009

Office of Consumer Credit Commissioner

Notice of Rate Ceilings

The Consumer Credit Commissioner of Texas has ascertained the following rate ceilings by use of the formulas and methods described in §§303.003, 303.005, and 303.009, Texas Finance Code.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/12/09 - 10/18/09 is 18% for Consumer¹/Agricultural/Commercial²/credit through \$250,000.

The weekly ceiling as prescribed by §303.003 and §303.009 for the period of 10/12/09 - 10/18/09 is 18% for Commercial over \$250,000.

The monthly ceiling as prescribed by §303.005³ for the period of 10/01/09 - 10/31/09 is 18% for Consumer/Agricultural/Commercial/credit through \$250,000.

The monthly ceiling as prescribed by §303.005 for the period of 10/01/09 - 10/31/09 is 18% for Commercial over \$250,000.

¹Credit for personal, family or household use.

²Credit for business, commercial, investment or other similar purpose.

³For variable rate commercial transactions only.

TRD-200904479

Leslie L. Pettijohn

Commissioner

Office of Consumer Credit Commissioner

Filed: October 6, 2009

Texas Education Agency

Request for Applications Concerning Texas Secondary School Redesign and Restructuring Grant, Cycle 6

Eligible Applicants. The Texas Education Agency (TEA) is requesting applications under the Texas Secondary School Redesign and Restructuring Grant, Cycle 6, (known as Texas High School Redesign and Restructuring for the first five cycles and still abbreviated as THSRR), Request for Applications (RFA) #701-10-104, from independent school districts and open-enrollment charter schools. A school district or open-enrollment charter school may apply on behalf of any of its eligible middle school, junior high school, or high school campuses. A school district or open-enrollment charter school must submit a separate application on behalf of each eligible middle school, junior high school, or high school.

Eligible campuses are those that have earned a final rating of *Academically Unacceptable (AU)* for the 2008-2009 school year. If the campus also earned an *AU* rating during the 2007-2008 school year, it may not have earned the *AU* rating for the 2006-2007 school year. (That is, applicants may not have been *AU* for the three consecutive years 2006-2007, 2007-2008, and 2008-2009.) Eligible campuses must also meet the following criteria, as appropriate, depending on whether the campus is a middle school, junior high school, or high school. A middle school or junior high school is eligible to participate in the THSRR Grant, Cycle 6, if it serves students in two or more of Grades 6, 7, 8, or 9. A high school is eligible to participate in the THSRR Grant, Cycle 6, if it serves students in two or more of Grades 9, 10, 11, or 12 and if at least 50 percent of its student population is in Grade 9 or higher. Additional eligibility requirements, as described in the RFA, also apply.

Description. The purpose of the THSRR Grant, Cycle 6, is to provide high school, middle school, and junior high school campuses rated *AU* with the resources to implement innovative, school-wide initiatives designed to improve student performance on the campus. Once selected for funding, grantees will collaborate with Regional Education Service Center (ESC) 13 to assess needs. Next, grantees will select approved service providers (i.e., educational partners with specific expertise in school redesign) from an approved vendor list supplied by the TEA. Approved service providers will work with grantees to identify resources and develop and implement a redesign plan.

Because the redesign/restructuring process requires a broad perspective on the issues that led to *AU* designation, external assistance is the most efficient way of identifying the fundamental problems and determining how they should most effectively be addressed. The THSRR Grant, Cycle 6, is designed to provide grantees with targeted assistance to conduct a comprehensive needs assessment, create and implement a redesign plan, and manage the redesign process to meet project milestones and requirements. The overall goal of the needs assessment, planning process, and program implementation is to create a redesigned school that is fundamentally different from the school that entered the grant program.

Dates of Project. The THSRR Grant, Cycle 6, will be implemented during the 2009-2010, 2010-2011, and 2011-2012 school years. Ap-

plicants should plan for a starting date of no earlier than April 1, 2010, and an ending date of no later than February 29, 2012.

Project Amount. Approximately \$2.5 million is available for funding THSRR, Cycle 6, grants. Funding will be provided for approximately 10 projects. Each project will receive a maximum of \$250,000 for the April 1, 2010, through February 29, 2012, project period. This grant program is funded 100 percent with state funds.

Applicants' Conference. An applicants' conference will be held on Friday, November 20, 2009, from 10:00 a.m. to 11:45 a.m. on the Texas Educational Telecommunication Network (TETN) available at each regional ESC (TETN Event #6606). To locate the nearest TETN facility, applicants should contact the TETN site manager at their regional ESC. A complete list of ESCs, including contact information, is available on the TEA website at <http://www.tea.state.tx.us/ESC/>.

Questions relevant to the RFA may be emailed to Dale Fowler at Dale.Fowler@tea.state.tx.us or Alison Villarreal at Alison.Villarreal@tea.state.tx.us or faxed to (512) 463-4246 prior to Friday, November 6, 2009. These questions, along with other information, will be addressed in the presentation. The conference will be open to all potential applicants and will provide general and clarifying information about the program and RFA.

The entire applicants' conference will be digitally recorded. Prospective applicants who are not able to attend the applicants' conference may request a password and procedures to download the video stream from the TETN site manager at their local ESC.

Selection Criteria. Applications will be selected based on the ability of each applicant to carry out all requirements contained in the RFA. Reviewers will evaluate applications based on the overall quality and validity of the proposed grant programs and the extent to which the applications address the primary objectives and intent of the project. Applications must address each requirement as specified in the RFA to be considered for funding. TEA reserves the right to select from the highest-ranking applications those that address all requirements in the RFA.

TEA is not obligated to approve an application, provide funds, or endorse any application submitted in response to this RFA. This RFA does not commit TEA to pay any costs before an application is approved. The issuance of this RFA does not obligate TEA to award a grant or pay any costs incurred in preparing a response.

Requesting the Application. RFAs are no longer available in print. The announcement letter and complete RFA will be posted on the TEA website at <http://burlleson.tea.state.tx.us/GrantOpportunities/forms> for viewing and downloading. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Further Information. For clarifying information about the RFA, contact Donnell Bilsby, Division of Discretionary Grants, Texas Education Agency, (512) 463-9269. In order to assure that no prospective applicant may obtain a competitive advantage because of acquisition of information unknown to other prospective applicants, any and all questions must be submitted in writing to the TEA contact person identified in Part 2: Program Guidelines of the RFA. All questions and the written answers thereto will be posted on the TEA website in the format of Frequently Asked Questions (FAQs) at <http://burlleson.tea.state.tx.us/GrantOpportunities/forms>. In the "Select Search Options" box, select the name of the RFA from the drop-down list. Scroll down to the "Application and Support Information" section to view all documents that pertain to this RFA.

Deadline for Receipt of Applications. Applications must be received in the TEA Document Control Center by 5:00 p.m. (Central Time), Thursday, December 10, 2009, to be eligible to be considered for funding.

TRD-200904514

Cristina De La Fuente-Valadez

Director, Policy Coordination

Texas Education Agency

Filed: October 7, 2009

◆ ◆ ◆ Employees Retirement System of Texas

Request for Proposal for Employee Affinity Program and Services

The Employees Retirement System of Texas ("ERS") is issuing a Request for Proposal ("RFP") for qualified firms/organizations (hereinafter called "Contractor") to provide an Employee Affinity Program that would offer discounted benefits and/or services to the state and certain higher education employees, retirees, and their qualified dependents ("Participants") throughout Texas beginning September 1, 2010 through August 31, 2013. Qualified Contractors shall provide the level of discount benefits and/or services required in the RFP and meet other requirements that are in the best interest of the Participants and ERS and shall be required to execute a Contractual Agreement ("Contract") provided by and satisfactory to ERS.

The RFP will be available in late-October from ERS' website and will include documents for the Contractor's review and response. To access the secured portion of the RFP website, interested Contractors shall email their request to the attention of IVendor Mailbox at: ivendorquestions@ers.state.tx.us. The email request shall include the Contractor's legal name, street address, phone and fax numbers, and email address for the organization's direct point of contact. Upon receipt of your emailed request, a user ID and password will be issued to the requesting organization that will permit access to the secured RFP. General questions concerning the RFP should be sent to the IVendor Mailbox as well. Inquires and responses, if applicable, are updated frequently.

To be eligible for consideration, the Contractor is required to submit a sealed proposal as more fully specified in the RFP. Contractor is required to submit a total of four (4) sets of the proposal. One (1) "Original" to include fully executed Signature Pages, Business Associate Agreement and Contractual Agreement, **signed in blue ink**, and without amendment or revision and an additional two (2) bound duplicates of the proposal, including all required exhibits shall be provided in printed format. The remaining complete copy shall be submitted on a separate CD-ROM in Excel or Word format. No PDF documents (with the exception of sample marketing materials and financial materials) may be reflected on the CD-ROM. All materials shall be executed as noted above and shall be received by ERS no later than 12:00 Noon (CT) on December 4, 2009.

ERS will base its evaluation and selection of Contractor(s) on the value of goods and services offered, product discounts, the ease at which a Participant can obtain a discount, Contractor's reporting capabilities, and customized communication material capabilities. The proposal will be evaluated individually and relative to the proposal of other qualified Contractors. Complete specifications will be included with the RFP.

ERS reserves the right to reject any and/or all proposals and/or call for new proposals if deemed by ERS to be in the best interests of the Participants and ERS. ERS also reserves the right to reject any proposal submitted that does not fully comply with the RFP's instructions and

criteria including minimum requirements as reflected in the RFP. ERS is under no legal requirement to execute a Contract on the basis of this notice or upon issuance of the RFP and will not pay any costs incurred by any entity in responding to this notice or the RFP or in connection with the preparation thereof. ERS specifically reserves the right to vary all provisions set forth at any time prior to execution of a contract where ERS deems it to be in the best interest of the Participants and ERS.

TRD-200904476

Paula A. Jones

General Counsel and Chief Compliance Officer

Employees Retirement System of Texas

Filed: October 5, 2009

Texas Commission on Environmental Quality

Agreed Orders

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (the Code), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the proposed orders and the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 16, 2009**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building C, 1st Floor, Austin, Texas 78753, (512) 239-2545 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the enforcement coordinator designated for each AO at the commission's central office at P.O. Box 13087, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 16, 2009**. Written comments may also be sent by facsimile machine to the enforcement coordinator at (512) 239-2550. The commission enforcement coordinators are available to discuss the AOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the AOs shall be submitted to the commission in **writing**.

(1) COMPANY: Ameriforge Corporation; DOCKET NUMBER: 2009-0766-IWD-E; IDENTIFIER: RN102075686; LOCATION: Houston, Harris County; TYPE OF FACILITY: metal shaping plant and associated wastewater treatment; RULE VIOLATED: 30 Texas Administrative Code (TAC) §305.125(1), Texas Pollutant Discharge Elimination System (TPDES) Permit Number WQ0003767000, Effluent Limitations and Monitoring Requirements Numbers 1, 3, and 5, and the Code, §26.121(a), by failing to comply with permit effluent limits for total suspended solids (TSS), dissolved oxygen, carbonaceous biochemical oxygen demand, and pH; PENALTY: \$7,980; ENFORCEMENT COORDINATOR: Samuel Short, (512) 239-5363; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(2) COMPANY: B & S Enterprise, Inc. dba Chevron Food Mart; DOCKET NUMBER: 2009-0984-PST-E; IDENTIFIER: RN101835015; LOCATION: Corsicana, Navarro County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor underground storage tanks (USTs) for releases; PENALTY: \$3,750; ENFORCEMENT COORDINATOR: Michael Meyer, (512) 239-4492; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(3) COMPANY: Buchanan Lake Village, Inc.; DOCKET NUMBER: 2009-0971-PWS-E; IDENTIFIER: RN101224988; LOCATION: Llano County; TYPE OF FACILITY: public water supply (PWS); RULE VIOLATED: 30 TAC §290.42(l), by failing to provide an up-to-date plant operations manual for operator review and reference; 30 TAC §290.46(f)(2) and (3)(A)(i)(III), (ii)(III), (iv), and (E)(iv), by failing to ensure the facility's operating records are available and accessible for review; 30 TAC §290.41(c)(1)(F), by failing to secure sanitary control easements covering all property within 150 feet of the wells; 30 TAC §290.46(s)(1), by failing to calibrate the facility's well meters at least once every three years; 30 TAC §290.45(b)(1)(C)(i) and Texas Health and Safety Code (THSC), §341.0315(c), by failing to provide a total well capacity of 0.6 gallons per minute (gpm) per connection; and 30 TAC §290.45(b)(1)(C)(ii) and THSC, §341.0315(c), by failing to provide a total storage capacity of 200 gallons per connection; PENALTY: \$856; ENFORCEMENT COORDINATOR: Chris Keffer, (512) 239-5610; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(4) COMPANY: Cypress Springs Special Utility District; DOCKET NUMBER: 2009-0718-PWS-E; IDENTIFIER: RN101190726; LOCATION: Mount Vernon, Franklin County; TYPE OF FACILITY: PWS; RULE VIOLATED: 30 TAC §290.113(f)(5) and THSC, §341.0315(c), by failing to comply with the maximum contaminant level for haloacetic acids; PENALTY: \$820; ENFORCEMENT COORDINATOR: Amanda Henry, (713) 767-3500; REGIONAL OFFICE: 2916 Teague Drive, Tyler, Texas 75701-3734, (903) 535-5100.

(5) COMPANY: DCP Midstream, LP; DOCKET NUMBER: 2009-0875-AIR-E; IDENTIFIER: RN100216613; LOCATION: Borger, Hutchinson County; TYPE OF FACILITY: gas plant; RULE VIOLATED: 30 TAC §116.115(b)(2)(F), Permit Number 5654A, Maximum Allowable Emission Rates Table, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$12,300; Supplemental Environmental Project (SEP) offset amount of \$4,920 applied to Texas Association of Resource Conservation and Development Areas, Inc. - Clean School Buses; ENFORCEMENT COORDINATOR: John Muennink, (361) 825-3100; REGIONAL OFFICE: 3918 Canyon Drive, Amarillo, Texas 79109-4933, (806) 353-9251.

(6) COMPANY: Kobra Mirhaj dba East Mount Houston Mobile Home Park; DOCKET NUMBER: 2009-0773-MWD-E; IDENTIFIER: RN102852621; LOCATION: Harris County; TYPE OF FACILITY: domestic wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0013955001, Limitations and Monitoring Requirements Number 1, and the Code, §26.121(a), by failing to comply with permit effluent limits for biochemical oxygen demand, TSS, and ammonia nitrogen; PENALTY: \$7,360; ENFORCEMENT COORDINATOR: Jeremy Escobar, (512) 239-1460; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(7) COMPANY: Eastex Hardy Properties, LLC dba Diamond Foods; DOCKET NUMBER: 2009-1147-PST-E; IDENTIFIER: RN103051892; LOCATION: Houston, Harris County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VI-

OLATED: 30 TAC §115.245(2) and THSC, §382.085(b), by failing to verify proper operation of the Stage II equipment; PENALTY: \$2,118; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5800; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(8) COMPANY: City of Edinburg; DOCKET NUMBER: 2009-0821-AIR-E; IDENTIFIER: RN102217734; LOCATION: Edinburg, Hidalgo County; TYPE OF FACILITY: municipal solid waste landfill; RULE VIOLATED: 30 TAC §101.20(1), 40 Code of Federal Regulations §60.8(b), and THSC, §382.085(b), by failing to use the appropriate test method to determine the methane concentration of the flare; PENALTY: \$1,280; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 1804 West Jefferson Avenue, Harlingen, Texas 78550-5247, (956) 425-6010.

(9) COMPANY: El Paso Surgery Centers, L.P. dba Surgical Center of El Paso; DOCKET NUMBER: 2009-0706-PST-E; IDENTIFIER: RN101656403; LOCATION: El Paso, El Paso County; TYPE OF FACILITY: surgical center; RULE VIOLATED: 30 TAC §334.50(b)(2)(B)(i)(I) and the Code, §26.3475(b), by failing to provide proper release detection for the suction piping associated with the UST; PENALTY: \$3,698; ENFORCEMENT COORDINATOR: Danielle Porras, (512) 239-2602; REGIONAL OFFICE: 401 East Franklin Avenue, Suite 560, El Paso, Texas 79901-1212, (915) 834-4949.

(10) COMPANY: Excalibur Collision Center, Inc.; DOCKET NUMBER: 2009-0810-AIR-E; IDENTIFIER: RN100755347; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: auto paint and body shop; RULE VIOLATED: 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain authorization for a spray paint booth; PENALTY: \$1,000; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3500; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(11) COMPANY: Exxon Mobil Corporation; DOCKET NUMBER: 2009-0958-AIR-E; IDENTIFIER: RN100211077; LOCATION: Nacogdoches, Nacogdoches County; TYPE OF FACILITY: oil and gas production; RULE VIOLATED: 30 TAC §116.115(b)(2)(F) and §122.143(4), Oil and Gas General Operating Permit Number O-390, General Terms and Conditions (GTC) Number (b)(2), Air Permit Number 32928, Special Condition (SC) Number 1, and THSC, §382.085(b), by failing to prevent unauthorized emissions; PENALTY: \$16,800; ENFORCEMENT COORDINATOR: Audra Benoit, (409) 898-3838; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(12) COMPANY: H.H.J., INC.; DOCKET NUMBER: 2009-0359-MLM-E; IDENTIFIER: RN102180411; LOCATION: near Tomball, Montgomery County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §309.13(e)(3) and TPDES Permit Number WQ0013863001, Other Requirements Number 4, by failing to submit sufficient evidence of legal restrictions prohibiting residential structures within that part of the 150 foot buffer zone not owned by the Respondent; the Code, §26.027(c), by failing to obtain authorization to discharge prior to beginning construction of a treatment facility; 30 TAC §101.4 and THSC, §382.085(a) and (b), by failing to prevent nuisance odor conditions; 30 TAC §305.125(1), TPDES Permit Number WQ0013863001, Permit Conditions Number 2.g., and the Code, §26.121(a)(1), by failing to prevent the discharge of untreated wastewater from the plant's collection system; and 30 TAC §305.125(9) and TPDES Permit Number WQ0013863001, Monitoring and Reporting Requirements Number 7, by failing to submit a noncompliance notification for an unauthorized discharge; PENALTY: \$11,510; ENFORCEMENT COORDINATOR: Evette Alvarado, (512) 239-2573; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(13) COMPANY: Kidane Mariam dba Hatcher Convenience Store; DOCKET NUMBER: 2009-1098-PST-E; IDENTIFIER: RN101565315; LOCATION: Dallas, Dallas County; TYPE OF FACILITY: convenience store with retail sales of gasoline; RULE VIOLATED: 30 TAC §334.10(b), by failing to maintain UST records and make them immediately available for inspection; 30 TAC §334.50(b)(1)(A) and the Code, §26.3475(c)(1), by failing to monitor USTs for releases; 30 TAC §334.50(d)(1)(B)(iii)(I) and the Code, §26.3475(c)(1), by failing to record inventory volume measurement for regulated substance inputs, withdrawals, and the amount still remaining in the tank each operating day; 30 TAC §334.50(d)(1)(B)(ii) and the Code, §26.3475(c)(1), by failing to conduct reconciliation of detailed inventory control records; and 30 TAC §334.48(c), by failing to conduct effective manual or automatic inventory control procedures for all USTs; PENALTY: \$6,140; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5800; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(14) COMPANY: Hays Consolidated Independent School District; DOCKET NUMBER: 2009-1124-EAQ-E; IDENTIFIER: RN105720361; LOCATION: Buda, Hays County; TYPE OF FACILITY: property for a future elementary school; RULE VIOLATED: 30 TAC §213.4(j) and Water Pollution Abatement Plan (WPAP) 11-09021801, Standard Conditions Number 6, by failing to obtain approval of a modification of a WPAP; PENALTY: \$750; ENFORCEMENT COORDINATOR: Jennifer Graves, (915) 425-6010; REGIONAL OFFICE: 2800 South IH 35, Suite 100, Austin, Texas 78704-5700, (512) 339-2929.

(15) COMPANY: James Construction Group, L.L.C.; DOCKET NUMBER: 2009-1134-WR-E; IDENTIFIER: RN105739114; LOCATION: Bell County; TYPE OF FACILITY: lime mixing operation for road construction; RULE VIOLATED: 30 TAC §297.11 and the Code, §11.121, by failing to obtain a water rights permit; PENALTY: \$710; ENFORCEMENT COORDINATOR: Heather Brister, (254) 751-0335; REGIONAL OFFICE: 6801 Sanger Avenue, Suite 2500, Waco, Texas 76710-7826, (254) 751-0335.

(16) COMPANY: King-Cottle Water Supply Corporation; DOCKET NUMBER: 2009-0996-PWS-E; IDENTIFIER: RN101458602; LOCATION: Cottle County; TYPE OF FACILITY: PWS; RULE VIOLATED: 30 TAC §290.45(b)(1)(D)(v) and THSC, §341.0315(c), by failing to provide emergency power that will deliver water at a rate of 0.35 gpm per connection; PENALTY: \$277; ENFORCEMENT COORDINATOR: Epifanio Villarreal, (361) 825-3100; REGIONAL OFFICE: 1977 Industrial Boulevard, Abilene, Texas 79602-7833, (325) 698-9674.

(17) COMPANY: Magnolia Independent School District; DOCKET NUMBER: 2009-1048-MWD-E; IDENTIFIER: RN102077583; LOCATION: Montgomery County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(1), TPDES Permit Number WQ0012703001, Effluent Limitations and Monitoring Requirements Numbers 1 and 3, and the Code, §26.121(a), by failing to comply with permitted effluent limits for pH, ammonia nitrogen, and TSS; PENALTY: \$4,920; ENFORCEMENT COORDINATOR: Lanae Foard, (512) 239-2554; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(18) COMPANY: City of Meadow; DOCKET NUMBER: 2009-1179-MWD-E; IDENTIFIER: RN101920015; LOCATION: Terry County; TYPE OF FACILITY: wastewater treatment; RULE VIOLATED: 30 TAC §305.125(5) and TPDES Permit Number WQ0010346001, Operational Requirements Number 4, by failing to maintain adequate safeguards to prevent the discharge of untreated or inadequately treated waste during electrical power failures; PENALTY: \$2,100; ENFORCEMENT COORDINATOR: Lauren

Smitherman, (512) 239-5223; REGIONAL OFFICE: 5012 50th Street, Suite 100, Lubbock, Texas 79414-3426, (806) 796-7092.

(19) COMPANY: North American Steel Corporation; DOCKET NUMBER: 2009-0993-AIR-E; IDENTIFIER: RN104982137; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: structural steel fabrication plant; RULE VIOLATED: 30 TAC §116.110 and THSC, §382.0518(a) and §382.085(b), by failing to obtain proper authorization for its painting operations; PENALTY: \$4,000; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(20) COMPANY: Spanky's Wrecker Service Incorporated dba Spanky's Wrecker; DOCKET NUMBER: 2009-0863-PST-E; IDENTIFIER: RN101898575; LOCATION: Beaumont, Jefferson County; TYPE OF FACILITY: UST; RULE VIOLATED: 30 TAC §334.47(a)(2), by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system; and 30 TAC §334.54(d)(2), by failing to ensure that any residue from stored regulated substances which remained in the system did not exceed a depth of 2.5 centimeters at the deepest point and did not exceed 0.3% by weight of the system at full capacity; PENALTY: \$5,250; ENFORCEMENT COORDINATOR: Mike Pace, (817) 588-5800; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(21) COMPANY: Sunoco Partners Marketing & Terminals, L.P.; DOCKET NUMBER: 2009-0844-AIR-E; IDENTIFIER: RN100214626; LOCATION: Nederland, Jefferson County; TYPE OF FACILITY: crude oil storage and transfer plant; RULE VIOLATED: 30 TAC §115.114(a)(4) and §122.143(4), Federal Operating Permit (FOP) Number O-01573, GTC and SC Number 1A, and THSC, §382.085(b), by failing to inspect secondary seals on external floating roof Tanks 1540 and 1548 every six months; 30 TAC §115.112(a)(2)(B) and §122.143(4), FOP Number O-01573, GTC and SC Number 1A, and THSC, §382.085(b), by failing to maintain vacuum breaker vents in a closed position on external floating roof storage tanks; 30 TAC §§122.143(4), 122.145(2)(A), and 122.146(5)(C)(v), FOP Number O-01573, GTC, and THSC, §382.085(b), by failing to report deviations and accurately certify the annual compliance certification; 30 TAC §115.247(2) and §122.143(4), FOP Number O-01573, GTC and SC Number 4D, and THSC, §382.085(b), by failing to submit the monthly gasoline throughput for 2007 and 2008; 30 TAC §111.111(a)(4)(A)(ii) and §122.143(4), FOP Number O-01573, GTC and SC Number 1A, and THSC, §382.085(b), by failing to record 98% of the daily observations of the flare; 30 TAC §122.143(4), FOP Number O-01573, GTC and SC Number 3B(iv)(1), and THSC, §382.085(b), by failing to perform quarterly opacity observations of all stationary vents; 30 TAC §116.115(c) and §122.143(4), FOP Number O-01573, SC Number 11, Air Permit Number 1980, SC Number 10A, and THSC, §382.085(b), by failing to stack test a portable thermal oxidizer within the past 12 months of a degassing event; and 30 TAC §116.115(c) and §122.143(4), FOP Number O-01573, SC Number 11, Air Permit Number 5415, SC Number 5E, and THSC, §382.085(b), by failing to seal open-ended lines with a cap, plug, or a blind flange; PENALTY: \$50,125; ENFORCEMENT COORDINATOR: Nadia Hameed, (713) 767-3500; REGIONAL OFFICE: 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

(22) COMPANY: Texas Petrochemicals, LLC; DOCKET NUMBER: 2009-0634-AIR-E; IDENTIFIER: RN100219526; LOCATION: Houston, Harris County; TYPE OF FACILITY: petrochemical plant; RULE VIOLATED: 30 TAC §116.115(c), Air Permit Number 46307, SC Number 1, and the THSC, §382.085(b), by failing to prevent unauthorized emissions; 30 TAC §101.201(a)(1)(B) and THSC, §382.085(b),

by failing to properly report Incident Number 118159 within 24 hours of discovery; 30 TAC §101.201(c) and THSC, §382.085(b), by failing to submit a final report of a reportable emissions event within 14 days; 30 TAC §101.201(b)(1)(l) and THSC, §382.085(b), by failing to comply with emissions event reporting requirements; and 30 TAC §§101.20(1), 111.111(a)(1)(A), and 116.115(c), 40 CFR §60.18(c)(1), Air Permit Number 46307, SC Number 9C, and THSC, §382.085(b), by failing to prevent visible emissions during Incident Number 110354; PENALTY: \$63,140; SEP offset amount of \$31,570 applied to Houston Regional Monitoring Corporation - Houston Area Monitoring; ENFORCEMENT COORDINATOR: Audra Benoit, (713) 767-3500; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(23) COMPANY: The Dow Chemical Company; DOCKET NUMBER: 2008-1555-IHW-E; IDENTIFIER: RN100225945; LOCATION: Freeport, Brazoria County; TYPE OF FACILITY: chemical manufacturing; RULE VIOLATED: 30 TAC §335.221(a)(6), 40 CFR §266.102(e)(1) and (2)(ii)(A) and §266.104(b)(1), and Hazardous Waste Permit Number 50161, Provision V.I.3.b. and d., by failing to meet the regulatory limit for stack gas concentration of carbon monoxide (CO) while burning hazardous waste; and 30 TAC §335.221(a)(6), 40 CFR §226.102(a), and Hazardous Waste Permit Number 50161, Provision V.I.3.b. and d., by failing to maintain the minimum permitted liquid to gas ratio of the wet scrubbers; PENALTY: \$97,500; SEP offset amount of \$39,000 applied to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program; ENFORCEMENT COORDINATOR: Clinton Sims, (512) 239-6933; REGIONAL OFFICE: 5425 Polk Avenue, Suite H, Houston, Texas 77023-1452, (713) 767-3500.

(24) COMPANY: W-TEK, INC.; DOCKET NUMBER: 2009-0760-IHW-E; IDENTIFIER: RN101130755; LOCATION: Irving, Dallas County; TYPE OF FACILITY: circuit board manufacturing; RULE VIOLATED: 30 TAC §335.62 and 40 CFR §262.11, by failing to conduct hazardous waste determinations and waste classifications on waste generated at the facility; 30 TAC §335.503(a)(4) and §335.513, by failing to classify and maintain all hazardous waste determination records; 30 TAC §335.6(c), by failing to update the notice of registration; 30 TAC §335.13(k) and 40 CFR §262.42, by failing to submit a manifest exception report within 45 days of the date that waste was accepted by an initial transporter; 30 TAC §335.69(a)(4) and 40 CFR §265.35, by failing to maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of operation in an emergency; 30 TAC §335.69(a)(4)(A) and 40 CFR §265.16(a)(4)(c), by failing to have personnel successfully complete an annual refresher training program regarding emergency response and to ensure the proper management of hazardous waste; 30 TAC §335.69(a)(2) and 40 CFR §262.34(a)(2), by failing to meet the requirements of hazardous waste accumulated on-site for 90 days or less regarding closed, labeled, or marked containers; 30 TAC §335.69(a)(1)(A) and 40 CFR §265.174, by failing to conduct weekly inspections of permit-exempt hazardous waste accumulation areas; 30 TAC §335.9(a)(1)(G), by failing to maintain records of hazardous and industrial solid waste activities; and 40 CFR §261.2(a), by failing to prevent the transport and disposal of hazardous waste to an unauthorized facility; PENALTY: \$18,340; ENFORCEMENT COORDINATOR: Judy Kluge, (817) 588-5800; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

(25) COMPANY: WTG Jameson, LP; DOCKET NUMBER: 2009-0820-AIR-E; IDENTIFIER: RN101246478; LOCATION: Silver, Coke County; TYPE OF FACILITY: natural gas processing plant; RULE VIOLATED: 30 TAC §122.146(1) and (2), FOP Number O-00865, GTC and Special Terms and Conditions Number 13, and THSC, §382.085(b), by failing to submit a complete and timely permit

compliance certification; 30 TAC §122.145(2)(A), FOP Number O-00865, GTC, and THSC, §382.085(b), by failing to submit a complete semi-annual deviation report; and 30 TAC §122.145(2)(C), FOP Number O-00865, GTC, and THSC, §382.085(b), by failing to submit a timely semi-annual deviation report; PENALTY: \$5,322; ENFORCEMENT COORDINATOR: Kirk Schoppe, (512) 239-0489; REGIONAL OFFICE: 622 South Oakes, Suite K, San Angelo, Texas 76903-7025, (325) 655-9479.

(26) COMPANY: Watson, Incorporated; DOCKET NUMBER: 2009-1171-AIR-E; IDENTIFIER: RN100567155; LOCATION: Fort Worth, Tarrant County; TYPE OF FACILITY: drilling rig manufacturing plant; RULE VIOLATED: 30 TAC §116.110(a) and THSC, §382.0518(a) and §382.085(b), by failing to obtain air permit authorization or satisfy the conditions of a Permit by Rule prior to constructing and operating an abrasive cleaning operation; PENALTY: \$1,070; ENFORCEMENT COORDINATOR: Suzanne Walrath, (512) 239-2134; REGIONAL OFFICE: 2309 Gravel Drive, Fort Worth, Texas 76118-6951, (817) 588-5800.

TRD-200904478

Kathleen C. Decker
Director, Litigation Division
Texas Commission on Environmental Quality
Filed: October 6, 2009



Enforcement Orders

A default order was entered regarding Allen Watts, Docket No. 2007-1590-WOC-E on September 28, 2009 assessing \$1,550 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rudy Calderon, Staff Attorney at (512) 239-0205, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Lake Ridge Water System L.P. dba Lake Ridge Properties, Inc., Docket No. 2007-1944-PWS-E on September 28, 2009 assessing \$374 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Stephen Thompson, Enforcement Coordinator at (512) 239-2558, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rescar, Inc., Docket No. 2007-1958-AIR-E on September 28, 2009 assessing \$2,425 in administrative penalties with \$485 deferred.

Information concerning any aspect of this order may be obtained by contacting Roshondra Lowe, Enforcement Coordinator at (713) 767-3553, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Mike Wiley, Docket No. 2008-0155-PST-E on September 28, 2009 assessing \$11,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Thomas Jones and Mary Jones, Docket No. 2008-0281-PST-E on September 28, 2009 assessing \$3,675 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Gary Shiu, Staff Attorney at (713) 422-8916, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The City of Roma, Docket No. 2008-0493-MSW-E on September 28, 2009 assessing \$27,950 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tommy Henson, Staff Attorney at (512) 239-0946, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding CITGO Refining and Chemicals Company L.P., Docket No. 2008-0837-AIR-E on September 28, 2009 assessing \$10,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Anna Treadwell, Staff Attorney at (512) 239-0974, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Windwood Water System, Inc., Docket No. 2008-0968-PWS-E on September 28, 2009 assessing \$637 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sharesa Alexander, Staff Attorney at (512) 239-3503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Mattie Novosad, Docket No. 2008-1068-PST-E on September 28, 2009 assessing \$7,875 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0654, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kobo, Inc. dba Kobo Homes, Inc., Docket No. 2008-1209-WQ-E on September 28, 2009 assessing \$2,372 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Peipey Tang, Staff Attorney at (512) 239-0654, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Eggemeyer Land Clearing, LLC, Docket No. 2008-1227-MSW-E on September 28, 2009 assessing \$3,726 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Xavier Guerra, Staff Attorney at (210) 403-4016, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Dona Stewart, Docket No. 2008-1257-PWS-E on September 28, 2009 assessing \$2,515 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Weir Bros., Inc., Docket No. 2008-1369-MSW-E on September 28, 2009 assessing \$39,400 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Barham Richard, Staff Attorney at (512) 239-0107, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Marshall and Allied Waste Systems, Inc., Docket No. 2008-1511-MSW-E on September 28, 2009 assessing \$5,400 in administrative penalties with \$1,080 deferred.

Information concerning any aspect of this order may be obtained by contacting Clinton Sims, Enforcement Coordinator at (512) 239-6933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding SLC Construction, LLC fka SLC Construction, LP, Docket No. 2008-1583-WQ-E on September 28, 2009 assessing \$4,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Tracy Chandler, Staff Attorney at (512) 239-0629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Salzgitter Mannesmann Stainless Tubes USA, Inc., Docket No. 2008-1774-AIR-E on September 28, 2009 assessing \$7,350 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Becky Combs, Staff Attorney at (512) 239-6939, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rupaul Mini Mart, Inc. dba all Seasons Food Mart, Docket No. 2008-1844-PST-E on September 28, 2009 assessing \$11,320 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting James Sallans, Staff Attorney at (512) 239-2053, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding David Parker, Docket No. 2008-1868-MLM-E on September 28, 2009 assessing \$10,941 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Coastal Industrial Coatings, Incorporated, Docket No. 2008-1883-AIR-E on September 28, 2009 assessing \$5,200 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Jacquelyn Boutwell, Staff Attorney at (512) 239-5846, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Alumax Mill Products, Inc., Docket No. 2009-0094-AIR-E on September 28, 2009 assessing \$11,929 in administrative penalties with \$2,385 deferred.

Information concerning any aspect of this order may be obtained by contacting Suzanne Walrath, Enforcement Coordinator at (512) 239-2134, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Phyllis Moore, Docket No. 2009-0106-MLM-E on September 28, 2009 assessing \$4,792 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sharesa Alexander, Staff Attorney at (512) 239-3503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Jerome Gomer, Docket No. 2009-0145-WQ-E on September 28, 2009 assessing \$3,000 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Sharesa Alexander, Staff Attorney at (512) 239-3503, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding WTG Gas Processing, L.P., Docket No. 2009-0210-AIR-E on September 28, 2009 assessing \$5,850 in administrative penalties with \$1,170 deferred.

Information concerning any aspect of this order may be obtained by contacting Miriam Hall, Enforcement Coordinator at (512) 239-1044, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Formosa Plastics Corporation, Texas, Docket No. 2009-0216-AIR-E on September 28, 2009 assessing \$62,555 in administrative penalties with \$12,511 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3420, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Exxon Mobil Corporation, Docket No. 2009-0217-AIR-E on September 28, 2009 assessing \$18,725 in administrative penalties with \$3,745 deferred.

Information concerning any aspect of this order may be obtained by contacting John Muennink, Enforcement Coordinator at (361) 825-3423, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Chemical Lime, Ltd., Docket No. 2009-0223-AIR-E on September 28, 2009 assessing \$6,000 in administrative penalties with \$1,200 deferred.

Information concerning any aspect of this order may be obtained by contacting Kirk Schoppe, Enforcement Coordinator at (512) 239-0489, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding D & M Water Supply Corporation, Docket No. 2009-0261-PWS-E on September 28, 2009 assessing \$620 in administrative penalties with \$124 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ST. FRANCIS VILLAGE, INC., Docket No. 2009-0279-MWD-E on September 28, 2009 assessing \$6,680 in administrative penalties with \$1,336 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding E. I. du Pont de Nemours and Company, Docket No. 2009-0285-AIR-E on September 28, 2009 assessing \$14,178 in administrative penalties with \$2,835 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Arlene Helen Stueve and Glenn Ronald Stueve, Docket No. 2009-0291-AGR-E on September 28, 2009 assessing \$2,650 in administrative penalties with \$530 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Diamond Shamrock Refining Company, L.P., Docket No. 2009-0300-AIR-E on September 28, 2009 assessing \$17,004 in administrative penalties with \$3,400 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Richter-Land, LLC, Docket No. 2009-0303-MLM-E on September 28, 2009 assessing \$12,000 in administrative penalties with \$2,400 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Texas H2O, Inc., Docket No. 2009-0311-PWS-E on September 28, 2009 assessing \$1,125 in administrative penalties with \$225 deferred.

Information concerning any aspect of this order may be obtained by contacting Richard Croston, Enforcement Coordinator at (512) 239-5717, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding V&M Star, a Partnership with General and Limited Partners, LP, Docket No. 2009-0317-IWD-E on September 28, 2009 assessing \$5,670 in administrative penalties with \$1,134 deferred.

Information concerning any aspect of this order may be obtained by contacting Steve Villatoro, Enforcement Coordinator at (512) 239-4930, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Citgo Refining and Chemicals Company L.P., Docket No. 2009-0340-AIR-E on September 28, 2009 assessing \$7,700 in administrative penalties with \$1,540 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3420, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Oglebay Norton Industrial Sands, Inc., Docket No. 2009-0342-IHW-E on September 28, 2009 assessing \$11,425 in administrative penalties with \$2,285 deferred.

Information concerning any aspect of this order may be obtained by contacting Mike Meyer, Enforcement Coordinator at (512) 239-4492, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hanson Aggregates, Inc., Docket No. 2009-0343-IWD-E on September 28, 2009 assessing \$8,108 in administrative penalties with \$1,621 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Rainbow Painting, L.L.C., Docket No. 2009-0353-AIR-E on September 28, 2009 assessing \$1,000 in administrative penalties with \$200 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Benoit, Enforcement Coordinator at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding JELD-WEN, Inc., Docket No. 2009-0357-AIR-E on September 28, 2009 assessing \$5,500 in administrative penalties with \$1,100 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding BNSF Railway Company, Docket No. 2009-0365-IWD-E on September 28, 2009 assessing \$9,020 in administrative penalties with \$1,804 deferred.

Information concerning any aspect of this order may be obtained by contacting Cheryl Thompson, Enforcement Coordinator at (817) 588-5886, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Grapevine, Docket No. 2009-0441-MWD-E on September 28, 2009 assessing \$3,750 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Pam Campbell, Enforcement Coordinator at (512) 239-4493, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Millicrete Ready-Mix, LP, Docket No. 2009-0447-AIR-E on September 28, 2009 assessing \$3,588 in administrative penalties with \$717 deferred.

Information concerning any aspect of this order may be obtained by contacting Nadia Hameed, Enforcement Coordinator at (713) 767-3629, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Unison Drilling, Inc., Docket No. 2009-0464-AIR-E on September 28, 2009 assessing \$820 in administrative penalties with \$164 deferred.

Information concerning any aspect of this order may be obtained by contacting Trina Grieco, Enforcement Coordinator at (210) 403-4006, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Wanda Jo Noah, Docket No. 2009-0471-PST-E on September 28, 2009 assessing \$3,575 in administrative penalties with \$715 deferred.

Information concerning any aspect of this order may be obtained by contacting Wallace Myers, Enforcement Coordinator at (512) 239-6580, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding TOTAL PETROCHEMICALS USA, INC., Docket No. 2009-0491-AIR-E on September 28, 2009 assessing \$9,475 in administrative penalties with \$1,895 deferred.

Information concerning any aspect of this order may be obtained by contacting Audra Benoit, Enforcement Coordinator at (409) 899-8799, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Huxley, Docket No. 2009-0493-PWS-E on September 28, 2009 assessing \$2,745 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Andrea Linson-Mgbeoduru, Enforcement Coordinator at (512) 239-1482, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Edmonson, Docket No. 2009-0495-PWS-E on September 28, 2009 assessing \$210 in administrative penalties with \$42 deferred.

Information concerning any aspect of this order may be obtained by contacting Andrea Linson-Mgbeoduru, Enforcement Coordinator at (512) 239-1482, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NMAD ENTERPRISES, INC. dba Savannah Food & Deli, Docket No. 2009-0513-PST-E on September 28, 2009 assessing \$15,784 in administrative penalties with \$3,156 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ACCEL QUICK STOP, INC. dba Libby Food Store, Docket No. 2009-0519-PST-E on September 28, 2009 assessing \$2,768 in administrative penalties with \$553 deferred.

Information concerning any aspect of this order may be obtained by contacting Michael Pace, Enforcement Coordinator at (817) 588-5933, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Vopak Terminal Deer Park, Inc., Docket No. 2009-0532-AIR-E on September 28, 2009 assessing \$7,200 in administrative penalties with \$1,440 deferred.

Information concerning any aspect of this order may be obtained by contacting Rebecca Johnson, Enforcement Coordinator at (361) 825-3420, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kopperl Independent School District, Docket No. 2009-0535-MWD-E on September 28, 2009 assessing \$6,600 in administrative penalties with \$1,320 deferred.

Information concerning any aspect of this order may be obtained by contacting Jeremy Escobar, Enforcement Coordinator at (512) 239-1460, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Hudspeth County Water Control and Improvement District No. 1, Docket No. 2009-0537-MWD-E on September 28, 2009 assessing \$8,400 in administrative penalties with \$1,680 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Brady, Docket No. 2009-0546-MLM-E on September 28, 2009 assessing \$3,775 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Merrilee Hupp, Enforcement Coordinator at (512) 239-4490, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Granite Shoals, Docket No. 2009-0547-PWS-E on September 28, 2009 assessing \$1,330 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rebecca Clausewitz, Enforcement Coordinator at (210) 403-4012, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding ExxonMobil Oil Corporation, Docket No. 2009-0568-AIR-E on September 28, 2009 assessing \$20,000 in administrative penalties with \$4,000 deferred.

Information concerning any aspect of this order may be obtained by contacting Raymond Marlow, Enforcement Coordinator at (409) 899-8785, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Sealy Oil Mill & Feed Co., Docket No. 2009-0573-AIR-E on September 28, 2009 assessing \$1,050 in administrative penalties with \$210 deferred.

Information concerning any aspect of this order may be obtained by contacting Juliet Morgan, Enforcement Coordinator at (512) 239-0735, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding NEW K & T QUICK STOP, INC., Docket No. 2009-0578-PST-E on September 28, 2009 assessing \$10,416 in administrative penalties with \$2,083 deferred.

Information concerning any aspect of this order may be obtained by contacting Judy Kluge, Enforcement Coordinator at (817) 588-5825, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding City of Edgewood, Docket No. 2009-0589-PWS-E on September 28, 2009 assessing \$2,160 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Marie Braden dba Nana's Kitchen, Docket No. 2009-0596-PWS-E on September 28, 2009 assessing \$562 in administrative penalties with \$112 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Amistad Lago Villa Homeowner's Association, Inc., Docket No. 2009-0630-PWS-E on September 28, 2009 assessing \$2,622 in administrative penalties with \$524 deferred.

Information concerning any aspect of this order may be obtained by contacting Yuliya Dunaway, Enforcement Coordinator at (210) 490-3096, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Grand Ranch Treatment Company, Docket No. 2009-0660-MWD-E on September 28, 2009 assessing \$1,310 in administrative penalties with \$262 deferred.

Information concerning any aspect of this order may be obtained by contacting Samuel Short, Enforcement Coordinator at (512) 239-5363, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding The Devereux Foundation, Docket No. 2009-0668-MWD-E on September 28, 2009 assessing \$4,160 in administrative penalties with \$832 deferred.

Information concerning any aspect of this order may be obtained by contacting Lanae Foard, Enforcement Coordinator at (512) 239-2554, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Skidmore Water Supply Corporation, Docket No. 2009-0694-MWD-E on September 28, 2009 assessing \$3,090 in administrative penalties with \$618 deferred.

Information concerning any aspect of this order may be obtained by contacting Tom Jecha, Enforcement Coordinator at (512) 239-2576, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Ingram Readymix, Inc., Docket No. 2009-0698-MLM-E on September 28, 2009 assessing \$3,750 in administrative penalties with \$750 deferred.

Information concerning any aspect of this order may be obtained by contacting Jorge Ibarra, Enforcement Coordinator at (817) 588-5890, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Possum Kingdom Water Supply Corporation, Docket No. 2009-0719-PWS-E on September 28, 2009 assessing \$275 in administrative penalties with \$55 deferred.

Information concerning any aspect of this order may be obtained by contacting Amanda Henry, Enforcement Coordinator at (713) 767-3672, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding HAMMOND MOUND UTILITIES, INC., Docket No. 2009-0752-MWD-E on September 28, 2009 assessing \$1,300 in administrative penalties with \$260 deferred.

Information concerning any aspect of this order may be obtained by contacting Lanae Foard, Enforcement Coordinator at (512) 239-2554, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A default order was entered regarding Ryan Bullard, Docket No. 2009-0842-MLM-E on September 28, 2009 assessing \$10,941 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Phillip Goodwin, Staff Attorney at (512) 239-0675, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An agreed order was entered regarding Kennen W. Jackson, Docket No. 2009-0934-WOC-E on September 28, 2009 assessing \$750 in administrative penalties with \$150 deferred.

Information concerning any aspect of this order may be obtained by contacting Epifanio Villarreal, Enforcement Coordinator at (361) 825-3425, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding T. R. Moore, Docket No. 2009-0792-OSI-E on September 28, 2009 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Fred S. Williams, Jr., Docket No. 2009-0794-WOC-E on September 28, 2009 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding W. W. Webber, Inc., Docket No. 2009-0796-WQ-E on September 28, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Jim West, Docket No. 2009-0828-WOC-E on September 28, 2009 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Wilkins Contracting, Inc., Docket No. 2009-0858-WQ-E on September 28, 2009 assessing \$700 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding Michael Arena, Docket No. 2009-0901-OSI-E on September 28, 2009 assessing \$210 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

A field citation was entered regarding University Behavioral Health of El Paso, LLC, Docket No. 2009-0919-PST-E on September 28, 2009 assessing \$2,450 in administrative penalties.

Information concerning any aspect of this citation may be obtained by contacting Melissa Keller, SEP Coordinator at (512) 239-1768, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

An order was entered regarding NIDA, INC. dba Lawndale Chevron, Docket No. 2008-0232-PST-E on September 28, 2009 assessing \$4,224 in administrative penalties.

Information concerning any aspect of this order may be obtained by contacting Rajesh Acharya, Enforcement Coordinator at (512) 239-0577, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087.

TRD-200904518
LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 7, 2009

LaDonna Castañuela
Chief Clerk
Texas Commission on Environmental Quality
Filed: October 7, 2009

Notice of District Petition

Notice issued September 22, 2009.

TCEQ Internal Control No. 08262009-D01; Roman Forest Consolidated Municipal Utility District of Montgomery County has applied to the Texas Commission on Environmental Quality (TCEQ) for authority to adopt and impose an annual uniform operation and maintenance standby fee of \$216 per equivalent single family connection for a period of at least three (3) years, on unimproved property within the District. The application was filed pursuant to Chapter 49 of the Texas Water Code, 30 Texas Administrative Code Chapter 293, and the procedural rules of the TCEQ. The purpose of standby fees is to distribute a fair portion of the cost burden for operation and maintenance costs of the District facilities to owners of property who have not constructed vertical improvements but have water, wastewater or drainage facilities or services available. Any revenues collected from the operation and maintenance standby fees shall be used to supplement the District's operations and maintenance account.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

The TCEQ may grant a contested case hearing on the petition if a written hearing request is filed within 30 days after the newspaper publication of the notice. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) the name of the Petitioner and the TCEQ Internal Control Number; (3) the statement "I/we request a contested case hearing;" (4) a brief description of how you would be affected by the petition in a way not common to the general public; and (5) the location of your property relative to the proposed District's boundaries. You may also submit your proposed adjustments to the petition. Requests for a contested case hearing must be submitted in writing to the Office of the Chief Clerk at the address provided in the information section below. The Executive Director may approve the petition unless a written request for a contested case hearing is filed within 30 days after the newspaper publication of this notice. If a hearing request is filed, the Executive Director will not approve the petition and will forward the petition and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting. If a contested case hearing is held, it will be a legal proceeding similar to a civil trial in state district court. Written hearing requests should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Districts Review Team, at (512) 239-4691. Si desea información en Español, puede llamar al (512) 239-0200. General information regarding TCEQ can be found at our web site at www.tceq.state.tx.us.

TRD-200904517

Notice of Opportunity to Comment on Agreed Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Agreed Orders (AOs) in accordance with Texas Water Code (TWC), §7.075. Section 7.075 requires that before the commission may approve the AOs, the commission shall allow the public an opportunity to submit written comments on the proposed AOs. Section 7.075 requires that notice of the opportunity to comment must be published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 16, 2009**. Section 7.075 also requires that the commission promptly consider any written comments received and that the commission may withdraw or withhold approval of an AO if a comment discloses facts or considerations that indicate that consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed AO is not required to be published if those changes are made in response to written comments.

A copy of each proposed AO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about an AO should be sent to the attorney designated for the AO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 16, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The designated attorney is available to discuss the AO and/or the comment procedure at the listed phone number; however, §7.075 provides that comments on an AO shall be submitted to the commission in **writing**.

(1) COMPANY: Ice Melt Products, L.L.C.; DOCKET NUMBER: 2007-0748-MLM-E; TCEQ ID NUMBER: RN103004867; LOCATION: six miles south of Gail, one mile east of Farm-to-Market (FM) Road 669, Borden County; TYPE OF FACILITY: brine evaporation pit facility, which includes five brine evaporation pits; RULES VIOLATED: TWC, §26.121(a) and 30 TAC §335.4(1), by failing to prevent an unauthorized discharge as documented on February 19, 2007; and TWC, §26.121(a) and 30 TAC §335.4(1), by failing to prevent an unauthorized discharge, as documented on March 6, 2007; PENALTY: \$1,980; STAFF ATTORNEY: Barham A. Richard, Litigation Division, MC 175, (512) 239-0107; REGIONAL OFFICE: Midland Regional Office, 3300 North A Street, Building 4, Suite 107, Midland, Texas 79705-5404, (915) 570-1359.

(2) COMPANY: Milos Bednar; DOCKET NUMBER: 2009-0294-WQ-E; TCEQ ID NUMBER: RN105352249; LOCATION: 11730 Sleepy Hollow Road, Conroe, Montgomery County; TYPE OF FACILITY: construction site; RULES VIOLATED: 30 TAC §281.25(a)(4) and 40 Code of Federal Regulations §122.26(c), by failing to renew authorization to discharge storm water associated with construction activities by June 3, 2008; PENALTY: \$9,630; STAFF ATTORNEY: Kari Gilbreth, Litigation Division, MC 175, (512) 239-1320; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

(3) COMPANY: Weldon W. Alders dba Fairfield Estates, dba Meadow Glen Crystal Springs Water, dba Woodway Subdivision Water System, dba Woodlands Hills Water Company, dba Lakeview Water System, and dba Southampton Subdivision; DOCKET NUMBER: 2008-0362-MLM-E; TCEQ ID NUMBER: RN101206795, RN101220580, RN101220929, RN101177483, RN101458750, RN101239887; LOCATION: County Road (CR) 6022 and CR 6021, Liberty County (Fairfield Facility), FM 1413 and CR 490, Liberty County (Meadow Glen Facility), CR 427 and FM 1409, Liberty County (Woodway Subdivision Facility), CR 6476 and CR 6475, Liberty County (Woodlands Hills Facility), CR 4536 and CR 350, Liberty County (Lakeview Facility), CR 4700 and CR 4701, Liberty County (Southampton Facility); TYPE OF FACILITY: public water systems and a retail public utility; RULES VIOLATED: 30 TAC §290.45(b)(1)(D)(ii), Texas Health and Safety Code (THSC), §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.ii., by failing to provide a storage tank capacity of 200 gallons per connection at the Fairfield Facility; 30 TAC §290.45(b)(1)(D)(iii), THSC, §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.iii., by failing to provide two or more service pumps having a total capacity of 2.0 gallons per minute (gpm) per connection at the Fairfield Facility; 30 TAC §290.46(f)(3)(A)(i) and (ii), by failing to properly develop and maintain records of water works operation and maintenance activities at the Fairfield Facility; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices to ensure the good working condition and general appearance of the system's facilities and equipment at the Fairfield Facility; 30 TAC §290.41(c)(3)(O), by failing to maintain an intruder-resistant fence in order to protect the water system's well at the Fairfield Facility; 30 TAC §290.41(c)(3)(K), by failing to provide a properly sealed wellhead to prevent the possibility of contaminating the well water at the Fairfield Facility; 30 TAC §290.42(1), by failing to maintain a thorough plant operations manual for operator review and reference at the Fairfield Facility; 30 TAC §290.45(b)(1)(D)(ii), THSC, §341.0315(c), and TCEQ AO Docket Number 2006-0217-PWS-E, Ordering Provision Number 2.c.i., by failing to provide a storage tank capacity of 200 gallons per connection at the Meadow Glen Facility; 30 TAC §290.45(b)(1)(D)(iii), THSC, §341.0315(c), and TCEQ AO Docket Number 2006-0217-PWS-E, Ordering Provision Number 2.c.ii., by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection at the Meadow Glen Facility; 30 TAC §290.46(f)(3)(A)(i) and (ii), by failing to properly develop and maintain records of water works operation and maintenance activities at the Meadow Glen Facility; 30 TAC §290.46(m), by failing to initiate maintenance and housekeeping practices that shall ensure the good working condition and general appearance of the system's facilities and equipment at the Meadow Glen Facility; 30 TAC §290.45(b)(1)(D)(i) and THSC, §341.0315(c), by failing to provide a total well capacity of 0.6 gpm per connection at the Meadow Glen Facility; 30 TAC §290.42(1), by failing to provide a thorough plant operations manual for operator review and reference at the Meadow Glen Facility; 30 TAC §290.45(b)(1)(D)(iii) and THSC, §341.0315(c), by failing to provide two or more pumps that have total capacity of 2.0 gpm per connection at the Woodway Subdivision Facility; 30 TAC §290.46(m)(6), by failing to maintain Service Pump Number 2 at the well site in good working condition at the Woodway Subdivision Facility; 30 TAC §290.46(u), by failing to plug abandoned water system Well Number 2 in accordance with 16 TAC Chapter 76 or return the well to a non-deteriorated condition at the Woodway Subdivision Facility; 30 TAC §290.42(1), by failing to provide a thorough plant operations manual for operator review and reference at the Woodway Subdivision Facility; 30 TAC §290.46(f)(3)(A)(i) and (ii), by failing to properly develop and maintain records of water works operation and

maintenance activities at the Woodway Subdivision Facility; 30 TAC §290.45(b)(1)(D)(ii), THSC, §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.ii., by failing to provide a storage tank capacity of 200 gallons per connection at the Woodlands Hills Facility; 30 TAC §290.45(b)(1)(D)(iii), THSC, §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.iii., by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection at the Woodlands Hills Facility; 30 TAC §290.46(f)(3)(A)(i) and (ii), by failing to properly develop and maintain records of water works operation and maintenance activities at the Woodlands Hills Facility; 30 TAC §290.42(1), by failing to provide a thorough plant operations manual for operator review and reference at the Woodlands Hills Facility; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in watertight condition at the Woodlands Hills Facility; 30 TAC §290.45(b)(1)(C)(ii), THSC, §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.ii., by failing to provide a storage tank capacity of 200 gallons per connection at the Lakeview Facility; 30 TAC §290.45(b)(1)(C)(iii), THSC, §341.0315(c), and TCEQ AO Docket Number 2004-0480-PWS-E, Ordering Provision Number 3.d.iii., by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection at the Lakeview Facility; 30 TAC §290.46(m)(4), by failing to maintain all water treatment units, storage and pressure maintenance facilities, distribution system lines, and related appurtenances in watertight condition at the Lakeview Facility; 30 TAC §290.46(f)(3)(A)(i) and (ii), by failing to properly develop and maintain records of water works operation and maintenance activities at the Lakeview Facility; 30 TAC §290.42(1), by failing to maintain a thorough plant operations manual for operator review and reference at the Lakeview Facility; 30 TAC §291.93(3) and TWC, §13.139(d), by failing to submit a written planning report to the commission regarding the Lakeview Facility that clearly explains how a retail public utility that possesses a certificate of convenience and necessity (CCN) and has reached 85% of its capacity will provide the expected service demands to the remaining areas within the boundaries of its certified area; 30 TAC §290.45(b)(1)(C)(ii), THSC, §341.0315(c), and AO Docket Number 2006-0217-PWS-E, Ordering Provision Number 2.c.i., by failing to provide a storage tank capacity of 200 gallons per connection at the Southampton Facility; and 30 TAC §290.45(b)(1)(C)(iii), THSC, §341.0315(c), and AO Docket Number 2006-0217-PWS-E, Ordering Provision Number 2.c.ii., by failing to provide two or more service pumps having a total capacity of 2.0 gpm per connection at the Southampton Facility; PENALTY: \$61,390; STAFF ATTORNEY: Dinniah Tadema, Litigation Division, MC 175, (512) 239-0617; REGIONAL OFFICE: Houston Regional Office, 5425 Polk Street, Suite H, Houston, Texas 77023, (713) 767-3500.

TRD-200904491

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: October 6, 2009



Notice of Opportunity to Comment on Default Orders of Administrative Enforcement Actions

The Texas Commission on Environmental Quality (TCEQ or commission) staff is providing an opportunity for written public comment on the listed Default Orders (DOs). The commission staff proposes a DO when the staff has sent an executive director's preliminary report and petition (EDPRP) to an entity outlining the alleged violations; the proposed penalty; and the proposed technical requirements necessary to

bring the entity back into compliance; and the entity fails to request a hearing on the matter within 20 days of its receipt of the EDRP or requests a hearing and fails to participate at the hearing. Similar to the procedure followed with respect to Agreed Orders entered into by the executive director of the commission, in accordance with Texas Water Code (TWC), §7.075 this notice of the proposed order and the opportunity to comment is published in the *Texas Register* no later than the 30th day before the date on which the public comment period closes, which in this case is **November 16, 2009**. The commission will consider any written comments received and the commission may withdraw or withhold approval of a DO if a comment discloses facts or considerations that indicate that consent to the proposed DO is inappropriate, improper, inadequate, or inconsistent with the requirements of the statutes and rules within the commission's jurisdiction, or the commission's orders and permits issued in accordance with the commission's regulatory authority. Additional notice of changes to a proposed DO is not required to be published if those changes are made in response to written comments.

A copy of each proposed DO is available for public inspection at both the commission's central office, located at 12100 Park 35 Circle, Building A, 3rd Floor, Austin, Texas 78753, (512) 239-3400 and at the applicable regional office listed as follows. Written comments about the DO should be sent to the attorney designated for the DO at the commission's central office at P.O. Box 13087, MC 175, Austin, Texas 78711-3087 and must be **received by 5:00 p.m. on November 16, 2009**. Comments may also be sent by facsimile machine to the attorney at (512) 239-3434. The commission's attorneys are available to discuss the DOs and/or the comment procedure at the listed phone numbers; however, §7.075 provides that comments on the DOs shall be submitted to the commission in **writing**.

(1) COMPANY: Ruby McPike; DOCKET NUMBER: 2008-1140-MLM-E; TCEQ ID NUMBER: RN105508394; LOCATION: 14000 Block of Rollins Road, Winnie, Jefferson County; TYPE OF FACILITY: unauthorized municipal solid waste; RULES VIOLATED: 30 TAC §111.201 and Texas Health and Safety Code, §382.085(b), by failing to comply with the general prohibition on outdoor burning; and 30 TAC §330.15(a), by failing to prevent the unauthorized disposal of scrap tires; PENALTY: \$8,475; STAFF ATTORNEY: Stephanie J. Frazee, Litigation Division, MC 175, (512) 239-3693; REGIONAL OFFICE: Beaumont Regional Office, 3870 Eastex Freeway, Beaumont, Texas 77703-1830, (409) 898-3838.

TRD-200904490

Kathleen C. Decker

Director, Litigation Division

Texas Commission on Environmental Quality

Filed: October 6, 2009



Notice of Request for Public Comment and Notice of a Public Meeting for Two Total Maximum Daily Loads

The Texas Commission on Environmental Quality (TCEQ or commission) has made available for public comment two draft total maximum daily loads (TMDLs) for dissolved oxygen in Upper Oyster Creek (Segment 1245) of the Brazos River Basin, located in Fort Bend County. The TCEQ will conduct a public meeting to receive comments on the draft TMDLs. This announcement also constitutes notice that the TMDLs will become part of the State Water Quality Management Plan upon approval by the United States Environmental Protection Agency (EPA).

Texas is required to develop TMDLs for impaired water bodies included in the State of Texas Clean Water Act, §303(d) list of impaired

water bodies. A TMDL is a detailed water quality assessment that provides the scientific foundation to allocate pollutant loads in a certain body of water in order to restore and maintain designated uses.

The TCEQ will conduct a public meeting on the draft TMDLs for dissolved oxygen in Upper Oyster Creek (Segment 1245). The purpose of the public meeting is to provide the public an opportunity to comment on the draft TMDLs. The commission requests comment on each of the major components of the TMDL: problem definition, endpoint identification, source analysis, seasonal variation, linkage between sources and receiving waters, margin of safety, pollutant loading allocation, public participation, and implementation and reasonable assurances. After the public comment period, TCEQ staff may revise the TMDLs, if appropriate. A request will then be made that the final TMDLs be considered by the commission for adoption. Upon adoption of the TMDLs by the commission, the final TMDLs and a response to all comments received will be made available on the TCEQ Web site. The TMDLs will then be submitted to EPA Region 6 for final action by EPA. Upon approval by EPA, the TMDLs will be certified as an update to the State of Texas Water Quality Management Plan.

The public comment meeting will be held on November 12, 2009, 6:30 p.m., at Lost Creek Park, 3703 Lost Creek Boulevard, Sugar Land, Texas 77479. At this meeting individuals have the opportunity to present oral statements when called upon in order of registration. An agency staff member will give a brief presentation at the start of the meeting and will be available to answer questions before and after public comments have been received.

Written comments should be submitted to Jason Leifester, Water Quality Planning Division, Texas Commission on Environmental Quality, MC 203, P.O. Box 13087, Austin, Texas 78711-3087 or faxed to (512) 239-1414. All comments must be received by 5:00 p.m., November 18, 2009, and should reference, *Two Total Maximum Daily Loads for Dissolved Oxygen in Upper Oyster Creek, For Segment Number 1245*. For further information regarding the draft TMDLs, please contact Jason Leifester, Water Quality Planning Division, at (512) 239-6457 or jleifest@tceq.state.tx.us. Copies of the draft TMDL document will be available and can be obtained via the commission's Web site at: <http://www.tceq.state.tx.us/implementation/water/tmdl/tmdlcalendar.html> or by calling Earlene Lambeth at (512) 239-3129.

Persons with disabilities who have special communication or other accommodation needs who are planning to attend the meeting should contact Earlene Lambeth at (512) 239-3129. Requests should be made as far in advance as possible.

TRD-200904483

Robert Martinez

Director, Environmental Law Division

Texas Commission on Environmental Quality

Filed: October 6, 2009



Notice of Water Quality Applications

The following notices were issued on September 17, 2009 through September 30, 2009.

The following require the applicants to publish notice in a newspaper. Public comments, requests for public meetings, or requests for a contested case hearing may be submitted to the Office of the Chief Clerk, Mail Code 105, P.O. Box 13087, Austin, Texas 78711-3087, **WITHIN 30 DAYS OF THE DATE OF NEWSPAPER PUBLICATION OF THE NOTICE**.

INFORMATION SECTION

City of Richmond has applied for a minor amendment to the Texas Pollutant Discharge Elimination System (TPDES) Permit No. WQ0010258004 to change the discharge of treated domestic wastewater from annual average flow of 1,500,000 gallons to at a daily average flow not to exceed 950,000 gallons per day in the interim phase. The existing permit authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 3,000,000 gallons per day. The facility will be located approximately 8,715 feet east of the intersection of U.S. Highway 59 and Farm-to-Market Road 762 in Fort Bend County, Texas 77469.

Rohm and Haas Texas Incorporated, which operates the Deer Park Plant, a chemical manufacturing plant, has applied for a major amendment without renewal to TPDES Permit No. WQ0000458000 to remove Outfall 007, which discharges to Tucker Bayou and add Outfall 011, which will discharge via pipeline directly to the Houston Ship Channel Tidal. The current permit authorizes the discharge of treated process wastewater, storm water, treated utility wastewaters, sanitary wastewater, untreated utility wastewater, and storm water from construction activity at a daily average flow not to exceed 8,400,000 gallons per day via Outfall 001; nonprocess area storm water, hydrostatic test water from clean tankage, and storm water from construction activity on an intermittent and flow variable basis via Outfalls 002, 003, 004, 005 and 006; treated process wastewater, storm water, treated utility wastewaters, sanitary wastewater, untreated utility wastewater, and storm water from construction activity at a daily average flow not to exceed 2,500,000 gallons per day via Outfall 007; reporting Outfall 008 for the purpose of regulating the cumulative discharge loading of ammonia as nitrogen (NH₃-N) from Outfalls 001, 007 and 009; treated process wastewater, storm water, treated utility wastewaters, sanitary wastewater, untreated utility wastewater, and storm water from construction activity via overflow Outfall 009, when the diffuser sump pump capacity is exceeded at Outfall 001; and reporting Outfall 010 for the purpose of regulating the cumulative discharge loading of pollutants from Outfalls 001 and 009. The facility is located at 1900 Tidal Road, north of State Highway 225 and west of State Highway 134 (Battleground Road), in the City of Deer Park, Harris County, Texas 77536. The TCEQ Executive Director has reviewed this action for consistency with the Texas Coastal Management Program goals and policies in accordance with the regulations of the Coastal Coordination Council, and has determined that the action is consistent with the applicable CMP goals and policies.

Gulf Copper & Manufacturing Corporation, which operates the Gulf Copper & Dry Dock & Rig Repair, a general fabrication and repair facility for inland and offshore barges, supply vessels, oil rigs, and other similar vessels, has applied for a major amendment to TPDES Permit No. WQ0000779000 to authorize less stringent effluent limitations for total suspended solids at Outfalls 004 and 005; to remove Outfall 006; and to re-numbered Outfall 007 to Outfall 006. The current permit authorizes the discharge of treated domestic wastewater on a daily average flow not to exceed 16,000 gallons per day via Outfall 001, process wastewater, ballast/void space water and exterior surface low pressure rinse water on an intermittent and flow variable basis via Outfall 004, process wastewater, ballast/void space water and exterior surface low pressure rinse water on an intermittent and flow variable basis via Outfalls 005 and 006, ballast/void space water and exterior surface low pressure rinse water on an intermittent and flow variable basis via Outfall 007. The facility is located on Pelican Island adjacent to Galveston Channel and approximately 1.5 miles east of the Pelican Island Bridge, Galveston County, Texas.

April Plaza Marina, Inc. has applied for a major amendment to TPDES Permit No. WQ0011693001 to authorize the removal of the discharge pipe location language under Other Requirements, Item 4 on Page 23 of the existing permit. The current permit authorizes the discharge

of treated domestic wastewater at a daily average flow not to exceed 18,000 gallons per day. The facility is located approximately 3 miles west of the State Highway 105 crossing of the San Jacinto River between State Highway 105 and the south shore of Lake Conroe in Montgomery County, Texas 77356.

The City of Bullard has applied for a major amendment to TPDES Permit No. WQ0011787001 to authorize an increase in the discharge of treated domestic wastewater from a daily average flow not to exceed 213,000 gallons per day to a daily average flow not to exceed 438,000 gallons per day. The facility is located approximately 2,600 feet southwest of the Bullard School and approximately 3,000 feet west-southwest of the intersection of Farm-to-Market Road 344 and Oak Street in Cherokee County, Texas 75757.

Lower Colorado River Authority has applied for a renewal of TPDES Permit No. WQ0011982001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 100,000 gallons per day. The facility is located approximately 4,500 feet south-east of the intersection of Farm-to-Market Road 581 and U.S. Highway 190, west of Kirby Creek and south of the City of Lometa in Lampasas County, Texas 76853.

City of Pflugerville has applied for a renewal of TPDES Permit No. WQ0013019001 which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,100,000 gallons per day. The facility is located at 17935 Great Basin Avenue, approximately 0.5 mile northeast of the intersection of Pflugerville Parkway and Wilke lane, approximately 2 miles north of the Pflugerville central business district in Travis County, Texas 78660.

Texas H2O, Inc. has applied for a renewal of TPDES Permit No. WQ0013025001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 60,000 gallons per day. The facility is located approximately 1,700 feet northeast of the intersection of Hood County Road 311-A and Farm-to Market Road 3210 southeast of the City of Granbury in Hood County, Texas 76048.

SWWC Utilities Inc. has applied for a renewal of TPDES Permit No. WQ0013138001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 900,000 gallons per day. The facility is located approximately 1.3 miles south-southeast of the intersection of Farm-to-Market Road 969 and Hunter Bend Road, and approximately 2.3 miles southeast of the intersection of Farm-to-Market Roads 969 and 973 in Travis County, Texas.

Union Hill Independent School District has applied for a renewal of TPDES Permit No. WQ0013885001, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 8,000 gallons per day. The facility is located approximately 0.26 miles southwest of the intersection of Farm-to-Market Road 2088 and Farm-to-Market Road 2454 in Upshur County, Texas 75644.

United States Department of the Navy, which operates the Naval Weapons Industrial Reserve Plant McGregor, which formerly engaged in the manufacturing of solid propellant rocket motors and is currently engaged in site remediation and closure, has applied for a renewal of TPDES Permit No. WQ0002335000, which authorizes the discharge of treated groundwater from Area M and other groundwater on an intermittent and flow variable basis via Outfall 001. The facility is located at 1701 Bluebonnet Parkway, just west of State Highway 317, bounded on the south by Farm-to-Market Road 2671, and on the north by the St. Louis Southwestern Railway, southwest of the City of McGregor, Coryell and McLennan County, Texas 76657.

Matagorda County Water Control and Improvement District No. 5 has applied for a renewal of TPDES Permit No. WQ0010217001, which authorizes the discharge of treated domestic wastewater at a daily av-

erage flow not to exceed 75,000 gallons per day. The facility is located immediately west of the intersection of Pecan Street and 6th Street in Matagorda County, Texas 77419.

City of Winters has applied for a renewal of TCEQ Permit No. WQ0010320001, which authorizes the disposal of treated domestic wastewater at a daily average flow not to exceed 530,000 gallons per day via surface irrigation of 282 acres of non-public access land. This permit will not authorize a discharge of pollutants into waters in the State. The wastewater treatment facility and disposal site are located approximately 5,600 feet east and 2,900 feet south of the intersection of State Highway 153 and U.S. Highway 83, southeast of the City of Winters in Runnels County, Texas 79567.

City of Wharton has applied for a renewal of TPDES Permit No. WQ0010381002, which authorizes the discharge of treated domestic wastewater at a daily average flow not to exceed 500,000 gallons per day. The facility is located approximately 0.8 mile due north of the intersection of U.S. Highway 59 and Farm-to-Market Road 102, 1.8 miles northwest of the intersection of Richmond Road (State Highway 60) and Ogden Street (Farm-to-Market Road 102) in Wharton County, Texas 77488.

The City of Graham has applied for a renewal of TPDES Permit No. WQ0010487001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,100,000 gallons per day. The application also includes a request for a temporary variance to the existing water quality standards for Dissolved Oxygen. The facility is located approximately 8,000 feet south of the State Highway 67 bridge over Salt Creek in Young County, Texas.

City of Nassau Bay has applied for a renewal of TPDES Permit No. WQ0010526001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 1,330,000 gallons per day. The facility is located at 18920 Point Lookout, approximately one mile south of NASA Road One at the confluence of Clear Creek and Clear Lake and adjacent to Lake Nassau (Pearsons Lake) and approximately one mile east of the City of Webster in the City of Nassau Bay in Harris County, Texas 77058.

City of Laredo has applied for a renewal of TPDES Permit No. WQ0010681004, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 2,926,000 gallons per day. The current permit also authorizes the disposal of treated domestic wastewater via irrigation of the Laredo Country Club and Casa Blanca County Golf Courses. The facility is located approximately 2.5 miles northeast of the intersection of Del Mar Boulevard and Interstate Highway 35 in the City of Laredo in Webb County, Texas 78045. The irrigation sites are located on the Laredo Country Club and Casa Blanca County Golf Courses in Webb County, Texas.

City of Humble has applied for a renewal of TPDES Permit No. WQ0010763002, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 5,530,000 gallons per day. The facility is located approximately 3,000 feet south of the intersection of Will Clayton Boulevard and U.S. Highway 59, on the western banks of Garners Bayou and within the City limits of Humble in Harris County, Texas 77396.

City of The Colony has applied for a renewal of TPDES Permit No. WQ0011570001, which authorizes the discharge of treated domestic wastewater at an annual average flow not to exceed 4,500,000 gallons per day. The facility is located approximately 0.2 mile east and 2.7 miles north of the intersection of State Highway 121 and Farm-to-Market Road 423, near Stewart Creek in the City of The Colony in Denton County, Texas 75056.

If you need more information about these permit applications or the permitting process, please call the TCEQ Office of Public Assistance, Toll Free, at 1-800-687-4040. General information about the TCEQ can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200904515

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 7, 2009



Notice of Water Rights Application

Notice issued September 23, 2009.

APPLICATION NO. 12439; GMX Resources, Inc., Applicant, 9400 North Broadway #600, Oklahoma City, Oklahoma 73114, has applied for a temporary water use permit to divert and use not to exceed 40 acre-feet of water within a period of one year from Caddo Lake on Big Cypress Creek, Cypress Creek Basin for mining purposes in Harrison County. More information on the application and how to participate in the permitting process is given below. The application and a portion of the fees were received on March 23, 2009. Additional information and fees were received on March 24, April 17, April 20, and July 31, 2009. The application was declared administratively complete and accepted for filing on May 7, 2009. Written public comments and requests for a public meeting should be submitted to the Office of Chief Clerk, at the address provided in the information section below, by October 14, 2009.

INFORMATION SECTION

To view the complete issued notice, view the notice on our web site at www.tceq.state.tx.us/comm_exec/cc/pub_notice.html or call the Office of the Chief Clerk at (512) 239-3300 to obtain a copy of the complete notice. When searching the web site, type in the issued date range shown at the top of this document to obtain search results.

A public meeting is intended for the taking of public comment, and is not a contested case hearing.

The Executive Director can consider approval of an application unless a written request for a contested case hearing is filed. To request a contested case hearing, you must submit the following: (1) your name (or for a group or association, an official representative), mailing address, daytime phone number, and fax number, if any; (2) applicant's name and permit number; (3) the statement "[I/we] request a contested case hearing;" and (4) a brief and specific description of how you would be affected by the application in a way not common to the general public. You may also submit any proposed conditions to the requested application which would satisfy your concerns. Requests for a contested case hearing must be submitted in writing to the TCEQ Office of the Chief Clerk at the address provided in the information section below.

If a hearing request is filed, the Executive Director will not issue the requested permit and may forward the application and hearing request to the TCEQ Commissioners for their consideration at a scheduled Commission meeting.

Written hearing requests, public comments or requests for a public meeting should be submitted to the Office of the Chief Clerk, MC 105, TCEQ, P.O. Box 13087, Austin, TX 78711-3087. For information concerning the hearing process, please contact the Public Interest Counsel, MC 103, at the same address. For additional information, individual members of the general public may contact the Office of Public Assistance at 1-800-687-4040. General information regarding the TCEQ

can be found at our web site at www.tceq.state.tx.us. Si desea información en Español, puede llamar al 1-800-687-4040.

TRD-200904516

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 7, 2009



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on September 24, 2009, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. Arthur D. Gonzales; SOAH Docket No. 582-09-2554; TCEQ Docket No. 2008-0952-MSW-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against Arthur D. Gonzales on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Melissa Chao, Office of the Chief Clerk, (512) 239-3300.

TRD-200904427

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: September 30, 2009



Proposal for Decision

The State Office of Administrative Hearings issued a Proposal for Decision and Order to the Texas Commission on Environmental Quality on September 30, 2009, in the matter of the Executive Director of the Texas Commission on Environmental Quality, Petitioner v. Agile Investments, LLC dba Stars & Stripes USA 1; SOAH Docket No. 582-09-1363; TCEQ Docket No. 2008-0873-PST-E. The commission will consider the Administrative Law Judge's Proposal for Decision and Order regarding the enforcement action against Agile Investments, LLC dba Stars & Stripes USA 1 on a date and time to be determined by the Office of the Chief Clerk in Room 201S of Building E, 12100 N. Interstate 35, Austin, Texas. This posting is Notice of Opportunity to Comment on the Proposal for Decision and Order. The comment period will end 30 days from date of this publication. Written public comments should be submitted to the Office of the Chief Clerk, MC-105, TCEQ, P.O. Box 13087, Austin, Texas 78711-3087. If you have any questions or need assistance, please contact Melissa Chao, Office of the Chief Clerk, (512) 239-3300.

TRD-200904519

LaDonna Castañuela

Chief Clerk

Texas Commission on Environmental Quality

Filed: October 7, 2009



Texas Ethics Commission

List of Late Filers

Listed below are the names of filers from the Texas Ethics Commission who did not file reports, or failed to pay penalty fines for late reports in reference to the listed filing deadline. If you have any questions, you may contact Robbie Douglas at (512) 463-5800 or (800) 325-8506.

Deadline: 30-day Pre-election Report due April 9, 2009

Karen Raye Brown, Republican Party of Kendall County (CEC), 229 Sandy Shoal, Boerne, Texas 78006-1973

Deadline: Semiannual Report due July 15, 2009 for Committees

David E. Luevano, Americans for Energy Independence, 12628 Tierra India Way, El Paso, Texas 79938

Deadline: Lobby Activities Report due May 11, 2009

J. Lawrence Collins, 919 Congress Ave., Ste. 1100, Austin, Texas 78701

Deadline: Personal Financial Statement due April 30, 2009

William Wayne Ballard II, P.O. Box 227, Forrester, Texas 76041

Billy Bledsoe, 607 Mississippi St., Coleman, Texas 76834

Bryan K. Brown, 10402 Hollyglen Dr., Houston, Texas 77016

Deadline: Personal Financial Statement due June 29, 2009

Stephen J. Frost, 213 Quachita Dr., Atlanta, Texas 75551

Rolando B. Pablos, 212 Luther Dr., Olmos Park, Texas 78212

TRD-200904426

David A. Reisman

Executive Director

Texas Ethics Commission

Filed: September 30, 2009



Texas Health and Human Services Commission

Notice of Adopted Reimbursement Rate for Large, State-Operated Intermediate Care Facilities

Adopted Rates. As the single state agency for the state Medicaid program, the Texas Health and Human Services Commission (HHSC) has adopted the following per diem reimbursement rates.

Per Diem Rates for Large, State-Operated ICF/MR Services

Large State-Operated ICF/MR Facilities-Medicaid Only clients

Adopted interim daily rate: \$469.88

Large State-Operated ICF/MR Facilities - Dual-eligible Medicaid/Medicare clients

Adopted interim daily rate: \$450.30

Per Diem Rate for Small, State-Operated ICF/MR Services

Adopted interim daily rate: \$452.40

Hearing. HHSC conducted a public hearing on August 27, 2009, to receive public comment on the proposed rates. The hearing was held in accordance with Title 1 of the Texas Administrative Code (TAC) §355.105(g), which requires that public hearings be held on proposed reimbursement rates before such rates are approved by HHSC. The proposed rates and public hearing notice were published in the August 7, 2009, issue of the *Texas Register* (34 TexReg 5431). The adopted rates are to be effective September 1, 2009.

Methodology and Justification. The adopted rates were determined in accordance with the rate setting methodologies codified at Texas

Administrative Code (TAC) Title 1 Chapter 355, Subchapter D, §355.456(e), relating to Reimbursement Determination for State-Operated Facilities. The rate changes are being made based on actual and projected increases in costs to operate these facilities.

TRD-200904496

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: October 6, 2009



Notice of Public Hearing on Proposed Medicaid Payment Rates

Hearing. The Texas Health and Human Services Commission (HHSC) will conduct a public hearing on November 2, 2009, at 9:00 a.m. to receive public comment on rates for Levels 21 through 25 under the Attendant Compensation Rate Enhancement in the Community Based Alternatives (CBA) and Integrated Care Management (ICM), Community Living Assistance and Support Services, Deaf-Blind Multiple Disabilities Waiver, Day Activity and Health Services, Primary Home Care, and Residential Care and CBA/ICM Assisted Living/Residential Care programs operated by the Department of Aging and Disability Services (DADS). The hearing will be held in compliance with Human Resources Code §32.0282 and Texas Administrative Code (TAC) Title 1, §355.105(g), which require public notice and hearings on proposed Medicaid reimbursements. The public hearing will be held in the Lone Star Conference Room of the Health and Human Services Commission, Braker Center, Building H, located at 11209 Metric Blvd, Austin, Texas. Entry is through Security at the main entrance of the building, which faces Metric Boulevard. Persons requiring Americans with Disability Act (ADA) accommodation or auxiliary aids or services should contact Meisha Scott by calling (512) 491-1445, at least 72 hours prior to the hearing so appropriate arrangements can be made.

Proposal. HHSC proposes to adopt rates for Levels 21 through 25 under the Attendant Compensation Rate Enhancement. The proposed rates will be effective November 1, 2009, and were determined in accordance with the rate setting methodologies listed below under "Methodology and Justification."

Methodology and Justification. The proposed rates were determined in accordance with the rate setting methodologies codified at: §355.112, Attendant Compensation Rate Enhancement. These changes are being made in accordance with the 2010-11 General Appropriations Act (Article II, S.B. 1, 81st Legislature, Regular Session, 2009), which appropriated \$19,200,000 general revenue funds for the State Fiscal Year 2010-2011 biennium for the Attendant Compensation Rate Enhancement.

Briefing Package. A briefing package describing the proposed payment rates will be available on October 16, 2009. Interested parties may obtain a copy of the briefing package prior to the hearing by contacting Meisha Scott by telephone at (512) 491-1445; by fax at (512) 491-1998; or by e-mail at meisha.scott@hhsc.state.tx.us. The briefing package also will be available at the public hearing.

Written Comments. Written comments regarding the proposed payment rates may be submitted in lieu of, or in addition to, oral testimony until 5:00 p.m. the day of the hearing. Written comments may be sent by U.S. mail to the attention of Meisha Scott, Health and Human Services Commission, Rate Analysis, Mail Code H-400, P.O. Box 85200, Austin, Texas 78708-5200; by fax to Meisha Scott at (512) 491-1998; or by e-mail to meisha.scott@hhsc.state.tx.us. In addition, written comments may be sent by overnight mail or hand delivered to Meisha Scott, HHSC, Rate Analysis, Mail Code H-400, Braker Center, Building H, 11209 Metric Boulevard, Austin, Texas 78758-4021.

TRD-200904494

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: October 6, 2009



Notification of Consulting Contract Renewal

Pursuant to Chapter 2254, Subchapter B, Texas Government Code, the Health and Human Services Commission (HHSC) announces the intent to extend the existing contract, by an amendment, for consultant services to assist the State in assuring the effective performance of the Medicaid Claims/Primary Care Case Management (PCCM) Administrator vendor via Independent Verification and Validation Services (RFP #529-06-0376). The current contractor is Software Engineering Services, 112 North Central Avenue, Phoenix, AZ 86004, for a sum not to exceed \$2,262,856. HHSC intends to amend the existing contract to add an additional year to its term and increase the amount of the contract by \$740,000 unless a better offer is received.

The primary objectives for this contract are to assist HHSC in administering the Medicaid Claims/PCCM Administrator by:

Assuring the accurate, complete and timely delivery of technology services;

Monitoring and reporting on the Medicaid Claims/PCCM Administrator vendor performance, specifically related to quality, risk management and issues resolution on specified technology projects;

Assisting in the transition of the new Medicaid/PCCM Claims Administrator and/or new Pharmacy Claims and Rebate Administrator (PCRA) contract; and

Exploring opportunities to maximize efficiency and reduce costs in the administration of the affected State programs.

The RFP for the original contract is located in full on HHSC's Business Opportunities Page under "Contracting Opportunities" link at http://www.hhsc.state.tx.us/about_hhsc/BusOpp/BO_opportunities.asp. HHSC also posted notice of the procurement on the Texas Marketplace. Parties interested in submitting alternative proposals should prepare them as described and directed in the original RFP documents.

The successful Vendor will demonstrate the ability to meet these objectives and will be evaluated, in part, by the degree to which the respondent shows how it will achieve them.

The Health and Human Services Commission's Sole Point-Of-Contact for this procurement is:

Max Mrasek, Contract Manager

Texas Health and Human Services Commission

P.O. Box 85200-5200

Austin, Texas 78708-5200

(512) 491-1316

max.mrasek@hhsc.state.tx.us

All proposals must be received at the above-referenced address on or before 3:00 p.m. Central Time on November 9, 2009. Proposals received after this time and date will not be considered.

All proposals will be subject to evaluation based on the criteria and procedures set forth in the RFP. HHSC reserves the right to accept or reject any or all proposals submitted. HHSC is under no legal or other

obligation to execute any contracts on the basis of this notice. HHSC will not pay for costs incurred by any entity in responding to this RFP.

TRD-200904520

David Brown

Assistant General Counsel

Texas Health and Human Services Commission

Filed: October 7, 2009



Public Notice

The Texas Health and Human Services Commission (HHSC) intends to submit to the Centers for Medicare and Medicaid Services an amendment to the Deaf Blindness and Multiple Disabilities (DBMD) program, which is a Medicaid Home and Community-Based Services waiver program under the authority of 1915(c) of the Social Security Act. The DBMD program is currently approved for the five-year period beginning March 1, 2008, and ending February 28, 2013. The proposed effective date for the amendment is September 1, 2009.

The DBMD program serves individuals who are legally blind, have a chronic, severe hearing impairment, and have a third disability that limits independent functioning. The program serves individuals in the community who would otherwise require care in an Intermediate Care Facility for the Mentally Retarded and Related Conditions.

This amendment will change the eligibility criteria for the program to include children and youth who, because of age, are not currently eligible for the DBMD waiver program. Currently an individual must be at least 18 years old to be eligible for the DBMD. The age requirement will be removed. The amendment also makes eligible working individuals who buy into Medicaid and who are otherwise eligible for the DBMD program.

In addition, Support Consultation services will be added to the DBMD service array. This service will allow individuals participating in Consumer Directed Services (CDS) to have a Support Advisor for CDS services. The requirement of DBMD providers to inform DBMD participants about the freedom to choose between the DBMD program and services in an Intermediate Care Facility for Persons with Mental Retardation will be amended. Currently, providers must inform participants of their choice annually. This amendment will remove the annual re-

quirement and will only require providers to notify DBMD participants during initial enrollment.

The frequency of contract monitoring will change. All providers will be monitored at least every two years utilizing a risk assessment tool.

HHSC is requesting that the waiver amendment be approved for the period beginning September 1, 2009, through February 28, 2013. This amendment maintains cost neutrality for waiver years 2009 through 2013.

To obtain copies of the proposed waiver amendment, interested parties may contact Christine Longoria by mail at Texas Health and Human Services Commission, P.O. Box 85200, mail code H-620, Austin, Texas 78708-5200, phone (512) 491-1152, fax (512) 491-1953, or by e-mail at Christine.Longoria@hhsc.state.tx.us.

TRD-200904435

Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

Filed: October 5, 2009



Revision to Notice of Adopted Reimbursement Rates for Non-State Operated Intermediate Care Facilities for Persons with Mental Retardation

The Texas Health and Human Services Commission (HHSC) is revising the notice published in the September 18, 2009, issue of the *Texas Register*, pertaining to adopted reimbursement rates for non-state operated Intermediate Care Facilities for Persons with Mental Retardation (ICFs/MR). The revised notice follows.

Adopted Rates. As the single state agency for the state Medicaid program HHSC has adopted the following per diem reimbursement rates for non-state operated ICFs/MR. The public hearing notice was published in the July 17, 2009, issue of the *Texas Register* (34 TexReg 4768) and the proposed rates were published in the August 21, 2009, issue of the *Texas Register* (34 TexReg 5807).

Payment rates are adopted to be effective September 1, 2009, as follows:

Figure:

Per Diem Rates for Non-State Operated ICF/MR Services by Level of Need and Facility Size

Level of Need	8 or Less Beds	9-13 Beds	14+ Beds
1 Intermittent	\$148.84	\$121.78	\$115.64
5 Limited	\$165.85	\$138.30	\$123.44
8 Extensive	\$188.63	\$163.96	\$137.46
6 Pervasive	\$230.98	\$196.28	\$185.11
9 Pervasive +	\$419.01	\$398.10	\$399.56

Methodology and justification. The adopted rates were determined in accordance with the rate setting methodology set out at 1 Texas Administrative Code (TAC) §355.456 (relating to the Rate Setting Methodology). These rates were subsequently adjusted in accordance with 1 TAC §355.101 (relating to Introduction) and §355.109 (relating to Adjusting Reimbursement When New Legislation, Regulations or Economic Factors Affect Costs). The rate changes are being made in accordance with the 2010-11 General Appropriations Act (Article II, S.B.

1, 81st Legislature, Regular Session, 2009) which appropriated \$4.5 million general revenue for the State Fiscal Year 2010-11 biennium for Medicaid rate increases for the ICF/MR program.

TRD-200904492

Steve Aragon
Chief Counsel
Texas Health and Human Services Commission
Filed: October 6, 2009

Department of State Health Services

Licensing Actions for Radioactive Materials



The Department of State Health Services has taken actions regarding Licenses for the possession and use of radioactive materials as listed in the tables. The subheading "Location" indicates the city in which the radioactive material may be possessed and/or used. The location listing "Throughout Texas" indicates that the radioactive material may be used on a temporary basis at job sites throughout the state.

NEW LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Conroe	Arif Abdullah, M.D. P.A.	L06276	Conroe	00	09/15/09
Mount Pleasant	Cardiology Consultants of East Texas P.A.	L06274	Mount Pleasant	00	09/23/09
Throughout TX	NQS Inspection Ltd.	L06262	Corpus Christi	00	09/25/09

AMENDMENTS TO EXISTING LICENSES ISSUED:

Location	Name	License #	City	Amendment #	Date of Action
Austin	St. David's Healthcare Partnership L.P., L.L.P. dba St. David's Medical Center	L00740	Austin	105	09/18/09
Austin	St. David's Healthcare Partnership L.P., L.L.P. dba North Austin Medical Center	L04910	Austin	84	09/17/09
Austin	Seton Healthcare dba Seton Medical Center - Austin	L02896	Austin	106	09/14/09
Austin	Seton Healthcare dba University Medical Center at Brackenridge	L00268	Austin	109	09/15/09
Austin	Seton Healthcare dba Seton Medical Center - Williamson	L06128	Austin	10	09/15/09
Austin	Seton Healthcare dba Dell Children's Medical Center of Central Texas	L06065	Austin	14	09/15/09
Austin	Seton Healthcare dba Dell Children's Medical Center of Central Texas	L06065	Austin	15	09/23/09
Austin	Austin Radiological Association	L00545	Austin	158	09/22/09
Austin	Columbia St. David's Healthcare System L.P. dba South Austin Hospital	L03273	Austin	87	09/22/09
Austin	CEDRA Clinical Research L.L.C.	L05723	Austin	05	09/28/09
Bay City	Matagorda County Hospital District dba Matagorda Regional Medical Center	L02701	Bay City	16	09/30/09
Baytown	San Jacinto Methodist Hospital	L02388	Baytown	60	09/30/09
Bellaire	Texas Nuclear Imaging Inc. dba Excel Diagnostics Imaging Clinic Medical Center	L05009	Bellaire	33	09/23/09
Big Spring	Big Spring Hospital Corporation dba Scenic Mountain Medical Center	L00763	Big Spring	56	09/28/09
Burnet	Seton Healthcare dba Seton Highland Lakes Hospital	L03515	Burnet	41	09/15/09
Corsicana	Navarro Hospital Inc., L.P. dba Navarro Regional Hospital	L02458	Corsicana	33	09/22/09
Cypress	Cypress Cardiology P.A.	L04353	Cypress	23	09/18/09
Cypress	Houston Interventional Cardiology P.A.	L05470	Cypress	08	09/28/09
Dallas	Methodist Hospitals of Dallas Radiology Services	L00659	Dallas	69	09/16/09
Decatur	Wise Regional Health Systems	L02382	Decatur	35	09/14/09
Deer Park	Shell Oil Products U.S. dba Deer Park Refining Limited Partnership	L04554	Deer Park	28	09/24/09
Deer Park	Shell Chemical L.P.	L04933	Deer Park	21	09/24/09
El Paso	Tenet Hospitals Limited dba Sierra Medical Center	L04758	El Paso	26	09/16/09
Fort Worth	Radiology Associates	L03953	Fort Worth	50	09/23/09

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amend- ment #	Date of Action
Fort Worth	Oncology Hematology Consultants P.A. dba The Center for Cancer and Blood Disorders	L05919	Fort Worth	11	09/28/09
Garland	Insight Health Corporation	L05504	Garland	11	09/25/09
Greenville	Hunt Memorial Hospital District dba Hunt Regional Medical Center	L01695	Greenville	36	09/18/09
Harlingen	Harlingen Medical Center	L05587	Harlingen	05	09/25/09
Houston	Northwest Cardiology Consultants P.A.	L05795	Houston	09	09/16/09
Houston	Ben Taub General Hospital	L01303	Houston	69	09/18/09
Houston	Tops Specialty Hospital Ltd. dba Tops Surgical Specialty Hospital	L05441	Houston	15	09/22/09
Houston	Memorial Hermann Healthcare System dba Hermann Hospital	L04655	Houston	38	09/21/09
Houston	Mallinckrodt Medical Inc.	L03008	Houston	81	09/21/09
Houston	Bernardo Treistman, M.D., P.A. dba Cardiology Specialists of Houston	L05083	Houston	09	09/25/09
Houston	Houston Cyclotron Partners L.P. dba Cyclotope	L05585	Houston	15	09/25/09
Houston	Centronics L.L.C.	L06164	Houston	02	09/30/09
Houston	The University of Texas M.D. Anderson Cancer Center	L06227	Houston	06	09/30/09
Humble	Memorial Hermann Hospital Systems dba Memorial Hermann - Northeast	L02412	Humble	77	09/25/09
Humble	Memorial Hermann Hospital Systems dba Memorial Hermann - Northeast	L02412	Humble	78	09/28/09
Humble	Memorial Hermann Hospital Systems dba Memorial Hermann - Northeast	L02412	Humble	79	09/30/09
Katy	Memorial Hermann Hospital System dba Memorial Hermann Katy Hospital	L03052	Katy	56	09/23/09
Katy	Memorial Hermann Hospital System dba Memorial Hermann Katy Hospital	L03052	Katy	57	09/29/09
Kingsville	Texas A&M University - Kingsville	L01821	Kingsville	40	09/23/09
Kyle	Seton Healthcare dba Seton Medical Center Hays	L06254	Kyle	02	09/15/09
Lamesa	Dawson County Hospital District dba Medical Arts Hospital	L06244	Lamesa	03	09/25/09
Laredo	Laredo Texas Hospital Company L.P. dba Laredo Medical Center	L01306	Laredo	67	09/16/09
Lubbock	University Medical Center	L04719	Lubbock	111	09/22/09
Lubbock	Covenant Health Systems dba Joe Arrington Cancer Research and Treatment Center	L06028	Lubbock	11	09/30/09
McAllen	Texas Oncology P.A. dba South Texas Cancer Center at McAllen	L04880	McAllen	11	09/24/09
McAllen	Valley Nuclear Incorporated	L04521	McAllen	27	09/25/09
Nassau Bay	Christus Health dba Christus St. John Hospital	L03291	Nassau Bay	31	09/28/09
Pasadena	Turner Industries Group L.L.C.	L06235	Pasadena	03	09/17/09
Pasadena	CHCA Bayshore L.P. dba Bayshore Medical Center	L00153	Pasadena	85	09/14/09
Pittsburg	East Texas Medical Center - Pittsburg	L03106	Pittsburg	24	09/25/09
Plano	Mordecai N. Klein, M.D., P.A.	L06237	Plano	02	09/29/09
Richardson	Medical Edge Healthcare Group P.A. dba PET/CT Center of Richardson	L05688	Richardson	12	09/25/09
Round Rock	Heart and Vascular of Central Texas	L06045	Round Rock	03	09/18/09

AMENDMENTS TO EXISTING LICENSES ISSUED (CONTINUED):

Location	Name	License #	City	Amendment #	Date of Action
Round Rock	Scott and White Community Hospital Corporation dba Scott and White Healthcare - Round Rock	L06085	Round Rock	05	09/22/09
San Antonio	VHS San Antonio Partners L.L.C. dba Baptist Health System	L00455	San Antonio	191	09/18/09
San Antonio	South Texas Radiology Imaging Centers	L00325	San Antonio	178	09/16/09
San Antonio	Radiation Oncology of San Antonio P.A. dba Baptist Cancer Center	L05853	San Antonio	06	09/29/09
Silsbee	Mead Westvaco Texas L.L.P.	L01095	Silsbee	57	09/18/09
Texarkana	Red River Pharmacy Services	L05077	Texarkana	20	09/25/09
The Woodlands	Memorial Hermann Hospital System dba Memorial Hermann Hospital - The Woodlands	L03772	The Woodlands	73	09/22/09
The Woodlands	Woodlands Internists P.A.	L06201	The Woodlands	02	09/30/09
Throughout TX	Desert Industrial X-Ray L.P.	L04590	Abilene	100	09/23/09
Throughout TX	J-W Wireline Company	L06132	Addison	12	09/18/09
Throughout TX	ExxonMobil Chemical Company	L01135	Baytown	72	09/24/09
Throughout TX	Brazos Valley Inspection Services Inc.	L02859	Bryan	71	09/29/09
Throughout TX	Nondestructive & Visual Inspection L.L.C.	L06162	Carthage	03	09/15/09
Throughout TX	FRAC TECH Services Ltd.	L06188	Cisco	03	09/22/09
Throughout TX	FRAC TECH Services Ltd.	L06188	Cisco	04	09/30/09
Throughout TX	Escot NDE Inc.	L05002	Corpus Christi	32	09/24/09
Throughout TX	Professional Services Industries	L04939	Corpus Christi	14	09/30/09
Throughout TX	IRISNDT Inc.	L04769	Deer Park	79	09/21/09
Throughout TX	IRISNDT Inc.	L04769	Deer Park	80	09/22/09
Throughout TX	United States Environmental Services L.L.C.	L05801	Deer Park	04	09/23/09
Throughout TX	Waggoner & Associates Inc. dba Waggoner-Texas & Associates Inc.	L06159	Flint	10	09/24/09
Throughout TX	H & H X-Ray Services Inc.	L02516	Flint	81	09/24/09
Throughout TX	METCO	L03018	Houston	202	09/15/09
Throughout TX	HVJ Associates Inc.	L03813	Houston	40	09/16/09
Throughout TX	Nuclear Sources & Services Inc. dba NSSI/Sources & Services Inc.	L02991	Houston	38	09/17/09
Throughout TX	Varco L.P. (formerly known as Tuboscope Vetco)	L00287	Houston	126	09/23/09
Throughout TX	Halliburton Energy Services Inc.	L02113	Houston	115	09/29/09
Throughout TX	Oceaneering International Inc.	L04463	Ingleside	72	09/17/09
Throughout TX	Marco Inspection Services L.L.C.	L06072	Kilgore	24	09/14/09
Throughout TX	Dialog Wireline Services L.L.C.	L06104	Kilgore	03	09/17/09
Throughout TX	Acuren Inspection Inc.	L01774	La Porte	259	09/17/09
Throughout TX	Castle Engineering & Testing L.L.C.	L06143	Laredo	01	09/16/09
Throughout TX	American X-Ray & Inspection Services Inc. dba A X I S Inc.	L05974	Midland	22	09/22/09
Throughout TX	Black Warrior Wireline Corporation	L04473	Odessa	32	09/28/09
Throughout TX	TechCorr USA L.L.C.	L05972	Palestine	68	09/17/09
Throughout TX	Raba-Kistner Consultants Inc. dba Raba-Kistner-Brytest Consultants Inc.	L01571	San Antonio	64	09/24/09
Throughout TX	Supply Chain Solutions Ltd. dba Antares USA Ltd.	L06253	Spring	01	09/28/09
Tomball	Arvind M. Pai, M.D., P.A.	L06008	Tomball	04	09/30/09
Tyler	Carter Bloodcare	L04826	Tyler	15	09/30/09
Waco	Providence Health Center	L01638	Waco	56	09/23/09
Wharton	Signature Gulf Coast Hospital L.P. dba Gulf Coast Medical Center	L01388	Wharton	44	09/28/09

TERMINATIONS OF LICENSES ISSUED:

Location	Name	License #	City	Amend- ment #	Date of Action
Throughout TX	New Tech Systems Inc.	L05098	Midland	07	09/15/09
Throughout TX	Perf-O-Log L.L.C.	L05478	Midland	25	09/22/09

In issuing new licenses, amending and renewing existing licenses, or approving license exemptions, the Department of State Health Services (department), Radiation Safety Licensing Branch, has determined that the applicant has complied with the applicable provisions of 25 Texas Administrative Code (TAC) Chapter 289, regarding radiation control. In granting termination of licenses, the department has determined that the licensee has complied with the applicable decommissioning requirements of 25 TAC Chapter 289. In denying the application for a license, license renewal or license amendment, the department has determined that the applicant has not met the applicable requirements of 25 TAC Chapter 289.

This notice affords the opportunity for a hearing on written request of a person affected within 30 days of the date of publication of this notice. A person affected is defined as a person who demonstrates that the person has suffered or will suffer actual injury or economic damage and, if the person is not a local government, is (a) a resident of a county, or a county adjacent to the county, in which radioactive material is or will be located, or (b) doing business or has a legal interest in land in the county or adjacent county. A person affected may request a hearing by writing Richard A. Ratliff, Radiation Program Officer, Department of State Health Services, Radiation Material Licensing - Mail Code 2835, P.O. Box 149347, Austin, TX 78714-9347. For information call (512) 834-6688.

TRD-200904484
Lisa Hernandez
General Counsel
Department of State Health Services
Filed: October 6, 2009

Houston-Galveston Area Council

Request for Proposals

The Houston-Galveston Area Council solicits qualified organizations to provide social and healthcare services for individuals who have been affected by Hurricane Ike. A proposal package (RFP and attachments) will be available for download at <http://www.h-gac.com> beginning at 10:00 noon Central Standard Time on Monday, October 5, 2009. Hard copies of the proposal package will also be available at that time. There will be no bidder's conference for this request.

Proposals are due at H-GAC offices on or before 12:00 noon Central Daylight Time on Wednesday, October 28, 2009. Mailed proposals must be postmarked no later than Monday, October 26, 2009. H-GAC will not accept late proposals; we will make no exceptions. Prospective bidders may contact Carol Kimmick at (713) 627-3200 or carol.kimmick@h-gac.com or visit the web site to request a proposal package.

TRD-200904475
Jack Steele
Executive Director
Houston-Galveston Area Council
Filed: October 5, 2009

Texas Department of Insurance

Correction of Error

The Texas Department of Insurance adopted amendments to 28 TAC §§21.3502, 21.3510 - 21.3513, 21.3515 - 21.3518, 21.3540, and 21.3543 and new §§21.4401 - 21.4404, concerning Trade Practices, in the September 25, 2009, issue of the *Texas Register* (34 TexReg

6645). In four instances in the preamble, the word "§22.4402" should be "§21.4402". The errors appear on page 6651, in the left column, second and fifth paragraphs, and twice in the right column, first paragraph.

TRD-200904438

Texas Lottery Commission

Notice of Public Comment Hearing

A public hearing to receive public comments regarding proposed new 16 TAC §402.104 relating to Professional Gambler and Gambling Promoter, and proposed amendments to 16 TAC §401.153 relating to Qualifications for License, will be held on Tuesday, October 27, 2009, at 11:00 a.m. at the Texas Lottery Commission, Commission Auditorium, First Floor, 611 E. Sixth Street, Austin, Texas 78701. Persons requiring any accommodation for a disability should notify Michelle Guerrero, Executive Assistant to the General Counsel, and Texas Lottery Commission at (512) 344-5113 at least 72 hours prior to the public hearing.

TRD-200904444
Kimberly L. Kiplin
General Counsel
Texas Lottery Commission
Filed: October 5, 2009

Public Utility Commission of Texas

Announcement of Application for Amendment to State-Issued Certificate of Franchise Authority

The Public Utility Commission of Texas received an application on October 6, 2009, to amend a state-issued certificate of franchise authority (CFA), pursuant to §§66.001 - 66.016 of the Public Utility Regulatory Act (PURA).

Project Title and Number: Application of Friendship Cable of Texas, Inc. d/b/a Suddenlink Communications for Amendment to Its State-

Issued Certificate of Franchise Authority to Add City Limits of Anna Aubrey, Krum And Tioga, Texas, Project No. 37526.

The requested amendment is to expand the service area footprint to include the city limits of Anna, Aubrey, Krum and Tioga, Texas.

Information on the application may be obtained by contacting the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at (888) 782-8477. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at (800) 735-2989. All inquiries should reference Project Number 37526.

TRD-200904512

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: October 7, 2009



Notice of Application for Sale, Transfer, or Merger

Notice is given to the public of a joint application for sale, transfer, or merger filed with the Public Utility Commission of Texas (commission) on October 5, 2009, pursuant to the Public Utility Regulatory Act, TEXAS UTILITY CODE ANNOTATED §14.101 and §37.154 (Vernon 2007 & Supplement 2008) (PURA).

Docket Style and Number: Joint Application of AEP Texas Central Company, AEP Texas North Company, and Electric Transmission Texas, LLC to Transfer Certificate Rights and for Approval of Transfer of Facilities in Callahan, Childress, Coke, Cottle, Crockett, Eastland, Edwards, Frio, Hidalgo, Medina, Menard, Motley, Nolan, Nueces, Pecos, Reagan, Runnels, San Patricio, Taylor, Terrell, Tom Green, Upton, Val Verde, Victoria, Webb, Wilbarger, and Zavala Counties, Texas, Docket Number 37522.

The Application: AEP Texas Central Company (TCC) AEP Texas North Company (TNC) and Electric Transmission Texas, LLC (ETT) (collectively, Applicants) filed a joint application for approval of their proposal to transfer from TCC and TNC to ETT certain existing and under construction transmission facilities located in Callahan, Childress, Coke, Cottle, Crockett, Eastland, Edwards, Frio, Hidalgo, Medina, Menard, Motley, Nolan, Nueces, Pecos, Reagan, Runnels, San Patricio, Taylor, Terrell, Tom Green, Upton, Val Verde, Victoria, Webb, Wilbarger, and Zavala Counties, Texas and the associated certificate of convenience and necessity (CCN) rights for those transmission facilities.

TCC will sell to ETT, the following facilities and projects:

- * CREZ Default 69 kV Line and Substation Facilities (Fort Lancaster to Hamilton Road)
- * Port Aransas Transmission Substation Facilities
- * Rocksprings Substation
- * Victoria 69 kV Substation Facilities
- * Azteca Substation Facilities
- * Papalote Creek Substation Facilities
- * West Batesville Substation Facilities
- * Lytle 138/69-kV Substation and Lines
- * Laredo Topaz Generation Interconnection

TNC will sell to ETT, the following facilities and projects:

* CREZ Default 69-kV Lines and Substation Facilities

* Paducah Clare Street Substation Facilities

* Abilene - San Angelo Area Transmission Facilities

* Childress 69-kV Transmission Line

* Rio Pecos / Big Lake Substation Facilities

* Langford Power Generation Interconnection

* Vernon Area Substation and Line Facilities

* Matador to Paducah 69-kV Lines and Associated Transmission Facilities

* Bluff Creek to Oak Creek 138-kV Line

The costs related to the facilities proposed to be transferred will be reflected in upcoming Transmission Cost of Service (TCOS) filings planned by TCC, TNC, and ETT and the facilities will be transferred to ETT at TCC's or TNC's net book value at the time of the transfer. The net book value of TCC assets and construction work in progress (CWIP) proposed to be transferred to ETT is approximately \$10 million. The net book value of TNC assets and CWIP proposed to be transferred to ETT is approximately \$71.5 million. If approved and subject to conditions precedent, TCC, TNC, and ETT will complete the transaction and update the amounts after the transaction closes.

Persons who wish to intervene in the proceeding or comment upon the action sought should contact the Public Utility Commission of Texas, P.O. Box 13326, Austin, Texas 78711-3326, or call the Commission's Office of Customer Protection at (512) 936-7120 or (888) 782-8477. Hearing- and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or use Relay Texas (toll-free) 1-800-735-2989. All correspondence should refer to Docket Number 37522.

TRD-200904498

Adriana A. Gonzales

Rules Coordinator

Public Utility Commission of Texas

Filed: October 6, 2009



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on September 30, 2009, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of IntelPeer, Inc. for a Service Provider Certificate of Operating Authority, Docket Number 37507 before the Public Utility Commission of Texas.

Applicant intends to provide facilities-based and resold telecommunications services.

Applicant's requested SPCOA geographic area includes the areas currently served by existing incumbent local exchange carriers in Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than October 22, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 37507.

TRD-200904434
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 2, 2009



Notice of Application for Service Provider Certificate of Operating Authority

Notice is given to the public of the filing with the Public Utility Commission of Texas of an application on October 5, 2009, for a service provider certificate of operating authority (SPCOA), pursuant to §§54.151 - 54.156 of the Public Utility Regulatory Act (PURA).

Docket Title and Number: Application of Broadband Dynamics, LLC. for a Service Provider Certificate of Operating Authority, Docket Number 37520 before the Public Utility Commission of Texas.

Applicant intends to provide resold and data telecommunications services.

Applicant's requested SPCOA geographic area includes the areas currently served by existing incumbent local exchange carriers in Texas.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than October 28, 2009. Hearing and speech-impaired individuals with text telephone (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 37520.

TRD-200904497
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 6, 2009



Notice of Application for Waiver of Denial of Request for NXX Code

Notice is given to the public of the filing with the Public Utility Commission of Texas an application on October 6, 2009, for waiver of denial by the Pooling Administrator (PA) of Guadalupe Valley Communications Systems, L.P.'s (GVCS) request for assignment of a thousand-block of numbers in the Boerne rate center.

Docket Title and Number: Petition of Guadalupe Valley Communications Systems, L.P. for Waiver of Denial of Numbering Resources for Boerne Rate Center, Docket Number 37532.

The Application: GVCS submitted an application to the PA for a thousand-block of numbers on behalf of its customer, Cibolo Creek Nursing Center and Coldwell Banker, in the Boerne rate center in accordance with the current guidelines. The PA denied the request because GVCS did not meet the months-to-exhaust and utilization criteria established by the Federal Communications Commission.

Persons who wish to comment upon the action sought should contact the Public Utility Commission of Texas by mail at P.O. Box 13326, Austin, Texas 78711-3326, or by phone at (512) 936-7120 or toll free at 1-888-782-8477 no later than October 26, 2009. Hearing and speech-impaired individuals with text telephones (TTY) may contact the commission at (512) 936-7136 or toll free at 1-800-735-2989. All comments should reference Docket Number 37532.

TRD-200904513
Adriana A. Gonzales
Rules Coordinator
Public Utility Commission of Texas
Filed: October 7, 2009



Railroad Commission of Texas

Request for Comments on Proposed New LPG Form 30, Texas School LP-Gas Leakage Test Report

The Railroad Commission of Texas requests comments on proposed new Safety Division form, LPG Form 30, as part of proposed amendments to 16 TAC §9.3 and §9.41, relating to LP-Gas Forms, and Testing of LP-Gas Systems in School Facilities, published in this issue of the *Texas Register*. The proposed amendments, pursuant to House Bill 3918, 81st Legislature (Regular Session, 2009), change the testing method of LP-gas systems in school facilities from pressure testing to leakage testing. The Commission is requesting comments on the proposed amendments to the rules, as well as the proposed new form.

LPG Form 30, Texas School LP-Gas Leakage Test Report.



RAILROAD COMMISSION OF TEXAS
Safety Division
TEXAS SCHOOL LP-GAS LEAKAGE TEST REPORT

Name of School District: _____

Printed Name of School/School District Representative: _____

Signature of School/ School District Representative: _____

Title of Representative: _____ Date: _____

SCHOOL DISTRICT FACILITY

USE SEPARATE SHEET FOR EACH BUILDING OR INSTALLATION TESTED

Building Name or Number: _____

Physical Address of Building: _____

Serial Number of Container(s) Supplying the Building: _____

NORMAL OPERATING PRESSURE OF SCHOOL LP-GAS SYSTEM

From container(s) to building(s): _____ psig or ounces (Circle one)

Piping inside building(s): _____ psig and/or _____ ounces or inches w.c. (Circle one)

(RRC Use Only)

Site ID No.

Inspector's
Initials

Date

INDICATE THE TEST PROCEDURE UTILIZED

Leakage tests must be conducted pursuant to Tex. Admin. Code (TAC), Title 16, Chapter 9, LP-Gas Safety Rules, §9.41

- A. Pressure gauge inserted between container shutoff valve and first stage regulator (psi test) ☐
- B. Pressure gauge inserted between the first and the second stage regulator (psi test) ☐
- C. Water manometer or pressure gauge inserted at an appliance (inches w.c. or ounces/sq.in. test) ☐

TEST DURATION: _____ (Minutes) DATE OF TEST: _____ TEST RESULTS: ☐ PASS ☐ Fail

THE PERSON CONDUCTING THE LEAKAGE TEST IS:

(CHECK ONE)

☐ **CERTIFIED WITH THE TEXAS RAILROAD COMMISSION TO PERFORM LP-GAS LEAKAGE TESTS AS A REPRESENTATIVE OR EMPLOYEE OF AN LP-GAS LICENSEE (Print name of person conducting test, last 4 digits of SSN & License number of licensee)**

☐ **REGISTERED WITH THE TEXAS RAILROAD COMMISSION AS A LICENSED PLUMBER OR HVAC LICENSEE (Print name of person conducting test & Plumbing or HVAC License number)**

☐ **AN EMPLOYEE OF THE SCHOOL WHO IS CERTIFIED WITH THE TEXAS RAILROAD COMMISSION TO CONDUCT LEAKAGE TESTING OF LP-GAS SYSTEMS (Print name and last 4 digits of employee's social security number):**

Telephone Number for Person who Performed Testing: () _____

Signature of Person Performing Leakage Testing: _____

The LP-Gas Safety Rules may be reviewed on the Commission's website at:
<http://www.rrc.state.tx.us/safety/lpg/index.php>

LPG FORM 30
09/2009

Comments on the proposed amendments to §9.3 and §9.41, or on the proposed form included in this notice may be submitted to Rules Coordinator, Office of General Counsel, Railroad Commission of Texas, P.O. Box 12967, Austin, Texas 78711-2967; online at www.rrc.state.tx.us/rules/commentform.php; or by electronic mail to rulescoordinator@rrc.state.tx.us. The Commission will accept comments for 30 days after publication of the proposed amendments and the form in the *Texas Register*, and encourages all interested persons to submit comments no later than this deadline. The Commission cannot guarantee that comments submitted after the deadline will be considered. For further information, call Mr. James Osterhaus at (512) 463-6692. The status of all Commission rulemakings in progress is available at www.rrc.state.tx.us/rules/proposed.php.

TRD-200904480

Mary Ross McDonald

Managing Director

Railroad Commission of Texas

Filed: October 6, 2009

Texas Department of Transportation

Public Hearing - Texas Private Activity Bond Surface Transportation Corporation

The Texas Private Activity Bond Surface Transportation Corporation (the "Corporation") or its designated hearing officer will hold a public hearing on Friday, October 30, 2009 at 1:00 p.m. at the following location:

The Texas Department of Transportation

Dewitt C. Greer State Highway Building, Executive Room

125 East 11th Street

Austin, Texas 78701

Among the items to be discussed will be the proposal for the issuance by the Corporation of its senior lien revenue bonds to: (i) finance construction, engineering, developer fees, and other related costs to develop, design, construct, manage, operate, maintain, and repair the North Tarrant Express Facility which involves improving mobility along IH-820, IH-35W and SH-121/SH-183 Airport Freeway through a managed toll lane system including reconstructing IH-820 and SH-121/SH-183 from I-35W to the SH-121 split (approximately 13 miles); adding direct connectors at the IH-35/IH-820 interchange connecting IH-35W to the IH-820 managed toll lanes; adding managed toll lanes in each direction plus frontage roads and auxiliary lanes; acquisition of land to the extent authorized by state and federal law; related railroad improvements, frontage roads, crossing streets, tolling operations, and utility adjustments and any necessary and permitted ancillary facilities; (ii) fund capitalized interest to the extent authorized by state and federal law; (iii) fund reserves to the extent authorized by state and federal law; and (iv) pay certain costs of issuance of the bonds (collectively, the "NTE Project"). The NTE Project will be managed and operated by NTE Mobility Partners LLC pursuant to a "Comprehensive Development Agreement for a Concession - North Tarrant Express Facility" dated as of June 23, 2009 between the Texas Department of Transportation and NTE Mobility Partners LLC (the "CDA"). The term of the CDA is 52 years and pursuant to the CDA, NTE Mobility Partners LLC is authorized to toll the managed lanes constructed pursuant to the CDA. Ferrovial Agroman S.A. and W.W. Webber, LLC are co-lead contractors for the NTE Project. The maximum aggregate principal amount of the revenue bonds to be issued in one or more series is \$400,000,000. The revenue bonds and the interest thereon shall be payable solely from funds paid or made

available by NTE Mobility Partners LLC including toll revenues of the NTE Project and shall never constitute and shall not be considered obligations, general or otherwise, of the State of Texas, the Texas Transportation Commission, or the Texas Department of Transportation, or any other political subdivision thereof. All interested persons are invited to attend the public hearing or provide written comments to the address below and express any comments they may have regarding the issuance of the revenue bonds for the NTE Project. The deadline for receipt of comments is 5:00 p.m. on October 29, 2009. Comments may be sent to:

Texas Private Activity Bond Surface Transportation Corporation

Attention: President, Board of Directors

125 East 11th Street

Austin, Texas 78701

TRD-200904521

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: October 7, 2009

Public Hearing - Texas Private Activity Bond Surface Transportation Corporation

The Texas Private Activity Bond Surface Transportation Corporation (the "Corporation") or its designated hearing officer will hold a public hearing on Thursday, October 29, 2009 at 1:30 p.m. at the following location:

Texas Department of Transportation

Fort Worth District Office, Trinity Room

2501 SW Loop 820

Fort Worth, Texas 76133

Among the items to be discussed will be the proposal for the issuance by the Corporation of its senior lien revenue bonds to: (i) finance construction, engineering, developer fees, and other related costs to develop, design, construct, manage, operate, maintain, and repair the North Tarrant Express Facility which involves improving mobility along IH-820, IH-35W and SH-121/SH-183 Airport Freeway through a managed toll lane system including reconstructing IH-820 and SH-121/SH-183 from I-35W to the SH-121 split (approximately 13 miles); adding direct connectors at the IH-35/IH-820 interchange connecting IH-35W to the IH-820 managed toll lanes; adding managed toll lanes in each direction plus frontage roads and auxiliary lanes; acquisition of land to the extent authorized by state and federal law; related railroad improvements, frontage roads, crossing streets, tolling operations, and utility adjustments and any necessary and permitted ancillary facilities; (ii) fund capitalized interest to the extent authorized by state and federal law; (iii) fund reserves to the extent authorized by state and federal law; and (iv) pay certain costs of issuance of the bonds (collectively, the "NTE Project"). The NTE Project will be managed and operated by NTE Mobility Partners LLC pursuant to a "Comprehensive Development Agreement for a Concession - North Tarrant Express Facility" dated as of June 23, 2009 between the Texas Department of Transportation and NTE Mobility Partners LLC (the "CDA"). The term of the CDA is 52 years and pursuant to the CDA, NTE Mobility Partners LLC is authorized to toll the managed lanes constructed pursuant to the CDA. Ferrovial Agroman S.A. and W.W. Webber, LLC are co-lead contractors for the NTE Project. The maximum aggregate principal amount of the revenue bonds to be

issued in one or more series is \$400,000,000. The revenue bonds and the interest thereon shall be payable solely from funds paid or made available by NTE Mobility Partners LLC including toll revenues of the NTE Project and shall never constitute and shall not be considered obligations, general or otherwise, of the State of Texas, the Texas Transportation Commission, or the Texas Department of Transportation, or any other political subdivision thereof. All interested persons are invited to attend the public hearing or provide written comments to the address below and express any comments they may have regarding the issuance of the revenue bonds for the NTE Project. The deadline for receipt of comments is 5:00 p.m. on October 29, 2009. Comments may be sent to:

Texas Private Activity Bond Surface Transportation Corporation

Attention: President, Board of Directors

125 East 11th Street

Austin, Texas 78701

TRD-200904524

Bob Jackson

General Counsel

Texas Department of Transportation

Filed: October 7, 2009

The Texas A&M University System

Renewal of a Consulting Contract

In accordance with the provisions of Texas Government Code, Chapter 2254, The Texas A&M University System has renewed an existing contract for communication consulting services. The consultant will perform speech writing duties for the Chancellor of the A&M System.

The Name and Address of Consultant is as follows: Eric Bearse of Bearse & Company, LLC, 919 Congress, Ste 1500, Austin, Texas 78701.

The A&M System will pay an amount not to exceed \$72,000.00. The contract will begin on September 27, 2009 and end on September 27, 2010.

If any, the consultant will submit documents, films, recordings, or reports compiled by the consultant under the contract to TAMUS, no later than September 27, 2010.

Any questions regarding this posting should be directed to: Don Barwick, HUB and Procurement Manager, Office of HUB and Procurement Programs, The Texas A&M University System, 200 Technology Way, Ste 1273, College Station, Texas 77845, Voice: (979) 458-6410, E-mail: dbarwick@tamu.edu.

TRD-200904425

Don Barwick

HUB and Procurement Manager

The Texas A&M University System

Filed: September 30, 2009

Request for Proposals

RFP01 RSK-10-001 Utility Procurement Consulting Services

The Texas A&M University System is seeking proposals from interested vendors who specialize in providing utility procurement consulting services of superior quality, under the direction of the Risk Management department, for the purpose of assisting with coordination of

the procurement and delivery of natural gas and electricity for certain members of the A&M System, consistent with the delivery process as utilized by The Texas A&M University System for members located throughout the A&M System.

The RFP documentation may be obtained by contacting: Don Barwick, HUB and Procurement Manager, System Office of HUB and Procurement Programs, The Texas A&M University System, 200 Technology Way, Ste 1273, College Station, Texas 77845 or e-mail at dbarwick@tamu.edu.

The A&M System will base its choice on demonstrated competence, knowledge, and qualifications for the services; and, if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

Proposals must be received on or before 2:00 p.m. CDT on November 4, 2009.

TRD-200904431

Don Barwick

HUB and Procurement Manager

The Texas A&M University System

Filed: October 2, 2009

University of North Texas

SMART Schools - Request for Applications

The University of North Texas SMART School project, with funding through the State Energy Conservation Office (SECO), announces its Request for Applications (RFA) and invites applications from qualified, interested independent school districts (ISD) and campuses to design and implement a sustainable and/or energy efficiency project in their facilities. SMART Schools reserves the right to award more than one contract under the RFA. Contact: Parties interested in submitting an application should contact Brenda Swirczynski, SMART Schools Project Coordinator at: University of North Texas, Institute of Applied Science, 1155 Union Circle, Box 310559, Denton, Texas 76203-5017, (940) 565-3389 to obtain a complete copy of the RFA. Copies of the RFA will be mailed only to those parties specifically requesting a copy. SMART Schools will also make the entire RFA available electronically at: <http://www.biol.unt.edu/~rthompson/> after 10:00 a.m. CZT on October 19, 2009.

Questions and Non-Mandatory Letters of Intent: All written inquiries, questions, and Non-mandatory Letters of Intent to propose must be received at the above-referenced address not later than 5:00 p.m. CZT on January 8, 2010. Prospective proposers are encouraged to fax non-mandatory Letters of Intent and Questions to (940) 565-4297 to ensure timely receipt. Late Non-mandatory Letters of Intent and Questions will not be considered under any circumstances. Respondents shall be solely responsible for verifying timely receipt of Non-Mandatory Letters of Intent and Questions by Project Coordinator.

Closing Date: Applications must be delivered to the SMART School program via above-referenced address or fax no later than 5:00 p.m. CZT, on January 29, 2010. Late Proposals will not be considered under any circumstances. Respondents shall be solely responsible for verifying time receipt of Applications to the SMART Schools project.

Evaluation Criteria: Proposals will be evaluated under the evaluation criteria outlined in the RFA. The SMART Schools Panel will make the final decision and reserves the right to accept or reject any or all proposals submitted. SMART Schools is not obligated to execute a contract on the basis of this notice or the distribution of any RFA. SMART

Schools shall not pay for any costs incurred by any entity in responding to this Notice or to the RFA.

The anticipated schedule of events pertaining to this solicitation is as follows: Issuance of RFA October 19, 2009, after 10:00 a.m. CST; Non-Mandatory Letters of Intent and Questions Due January 8, 2010, 5:00 p.m. CST; Applications Due March 12, 2010, 5:00 p.m. CST; Contract December 31, 2010.

TRD-200904500

Rudi Thompson

Associate Professor

University of North Texas

Filed: October 7, 2009

Texas State University System

Request for Proposal for Outside Consultant or Executive Search Firm

RFP ISSUE DATE: October 2, 2009

PROPOSALS DUE: October 29, 2009

PURPOSE

The Texas State University System Board of Regents ("Board") solicits responses to this Request for Proposals ("RFP") from consultants or executive search firms interested in advising and assisting the Board (and its advisory search and selection committee) in its search for a chancellor. The consultant or search firm selected will be issued a contract to commence immediately and terminate upon the Board's appointment of a chancellor.

It is the policy of the System to make a good faith effort to include participation of Historically Underutilized Businesses (HUB) certified firms in its contracts. A "HUB" is a for profit business that meets the requirements of Texas Government Code, Chapter 2161 and administrative rules of the Texas Comptroller of Public Accounts in 34 TAC Chapter 20, Subchapter B.

THE SYSTEM

The System was created by the Texas Legislature in 1911; its institutional components include Lamar University, Sam Houston State University, Sul Ross State University (including Sul Ross Rio Grande College), Texas State University - San Marcos, Lamar Institute of Technology, Lamar State College - Orange, and Lamar State College - Port Arthur. Together, System colleges and universities enroll over 70,000 students and employ 13,000 faculty and staff.

The System is governed by a nine-member Board plus one non-voting student regent. Regents are appointed by the Governor with consent of the Senate for six-year, staggered terms. The student regent is appointed by the Governor for a one-year term. The current members of the Board are: Ron Blatchley, Chairman; Trisha S. Pollard, Vice Chairman; Charlie Amato, Michael J. Truncale, Kevin Lilly, David Montagne, Ron Mitchell, Greg Wilkinson, and Donna Williams. The current student regent is William Patterson. Charles R. Matthews is the current chancellor of the Texas State University System.

THE CHANCELLOR

As chief executive officer of the System, the chancellor's duties are prescribed by law and Board rule and include, but are not necessarily limited to, the following: recommending a plan for the organization of the System; recommending the appointment of presidents; assuming responsibility for the general management and success of the System and its component institutions; assuring that the System offers legal,

financial, personnel, curriculum, development, governmental relations, and planning and construction services to its component institutions.

SCOPE OF SERVICES

The Consultant shall advise and assist the Board in conducting its academic search for a new chancellor for the System, performing the tasks necessary to engage the services of an exceptional chief executive officer, including but not necessarily limited to the following: organization of the search process; meeting with key stakeholders; analysis of needs; posting of announcements; recruitment of a qualified pool of applicants; screening candidates and sharing its evaluation of the same as requested by the Board; setting up interviews of suitable candidates; facilitating the appointment process; working with and taking directives from the Board's advisory search committee and the Board; and working with such persons as that advisory search committee or the Board may direct.

CEO NOTICE OF NEED FOR SERVICES

As provided by Texas Government Code, §2254.028(c), the chief executive officer of the system has investigated the situation and found that the consulting services are necessary for the reasons that follow. First, the chancellorship is a critical position because, under the Texas State University System enabling legislation - Education Code, Chapters 95 and 96 - the chancellor is charged with oversight of both the System and its component institutions. Second, everyone in the System's presidential or executive staffs reports to the chancellor and would report to the individual selected. Third, it would be inappropriate for the incumbent chancellor to assist in choosing his successor. Fourth, selecting a chancellor is an infrequent occurrence, having happened just once in the System's history (on that occasion, the Board retained an outside consultant). Therefore, securing the services of a knowledgeable, impartial and uninvolved outside advisor to assist the Board in the search is essential to finding the quality individual needed to run the state's third largest university system, an institution serving over 70,000 students.

SCHEDULE OF EVENTS

The Board anticipates that this RFP process will proceed in accordance with the following schedule:

October 2, 2009 - RFP Issued

October 29, 2009 - Deadline for Submission of Proposals (2:00 p.m.)

November 9, 2009 - Deadline for evaluation of proposals

November 16, 2009 - Deadline for selection and announcement of firm

The Board reserves the right to change this schedule. Notice of any changes will be posted on the System's website.

FORM OF RESPONSE

1. Overview of the Firm

Provide a brief description of your firm, including the total number of consultants practicing in the higher education area; and the number of years the firm and the consultant to be assigned to this search have been engaged in such practice; and the scope and depth of knowledge of the firm and the consultant in Texas. Explain how your firm is organized and how its resources will be applied to the System's work.

2. Qualifications

Provide a brief narrative updating your firm's work since January 2006, assisting higher education clients with chief executive officer searches particularly in Texas.

3. Resumes

Provide vitas or resumes of those persons who would be assigned to advise and assist the Board and indicate specifically the proposed role of each individual. The resumes must clearly specify the number of years the individual has provided executive search services in Texas or elsewhere, distinguishing when the individual has been the primary consultant in a search. Further, identify who would be assigned as the primary, day-to-day contact for the System.

4. Business Practices

As to participation of minorities and women, describe efforts made by the firm to encourage and develop the participation of minorities and women as consultants in the firm, specifying whether the firm has adopted formal Equal Employment Opportunity and Affirmative Action policies, and provide a summary of the firm's hiring and promotion statistics for women and minority attorneys from January 2006 to date.

Also, please identify searches in which the candidate hired was a minority or a woman.

5. References

Please provide names, addresses, and phone numbers of three references.

PROPOSAL MODIFICATION

Any response to this RFP may be modified or withdrawn at any time prior to the proposal due date. No changes will be allowed after the expiration of the proposal due date. Prior to the proposal due date, the Board reserves the right to make amendments to the RFP by giving written notice to all firms who submitted RFPs as of the amendment date or posting notice thereof as indicated in the RFP Notice published at <http://www.marketplace.state.tx.us/>.

TIME SCHEDULE AND SUBMISSION DIRECTIONS

Proposals must be submitted by U.S. mail, enclosing five (5) copies to: The Honorable Donna Williams, Chair, Advisory Search and Selection Committee, Texas State University System Board of Regents, 200 E. 10th Street, Suite 600, Austin, Texas 78701. In addition, proposers are asked to submit an electronic version of their proposal to donna.williams@tsus.edu.

If you submit your proposal by mail, mark the outside of the envelope or shipping container as "PROPOSAL - CONSULTING SERVICES." All proposals become the property of the System. Proposals must set forth accurate and complete information as required by this RFP. Oral instructions or offers will not be considered. **Contact with Board Members, System or component institution officials regarding this RFP is expressly prohibited and will result in disqualification of your firm from consideration.**

CONTRACT FORMATION AND ADMINISTRATION

The Board retains sole discretion, reserving the right to reject any and all responses to this RFP and to cancel the RFP if such is deemed to be in the best interests of the System or its component institutions. This RFP in no way constitutes a commitment by the Board to award a contract. Firms responding must maintain a Texas office staffed with personnel who are responsible for providing consulting services to the Board.

In accordance with Texas Government Code 2254, Subchapter B, the Board through its advisory search and selection committee will evaluate responses to this RFP to identify the firm it judges to be the most highly qualified.

The Board reserves the right to negotiate all elements of the contract and to approve all personnel assigned to the search.

Further, the Board reserves the right to terminate the contract for any reason, subject to payment of earned fees and expenses accrued as of the date of termination.

COSTS INCURRED IN RESPONDING

All costs directly or indirectly related to preparation of a response to this RFP or any supplemental information required to clarify your original response shall be the sole responsibility of and shall be borne by your firm.

RELEASE OF INFORMATION AND OPEN RECORDS

Information submitted in response to this RFP shall not be released by the System during the proposal evaluation process. After the evaluation process is completed as determined by the Board, all proposals and the information contained therein may be subject to public disclosure under the Texas Public Information Act, Government Code, Chapter 552.

TRD-200904433

Fernando Gomez

Vice Chancellor and General Counsel

Texas State University System

Filed: October 2, 2009

The University of Texas System

Invitation for Consultants to Provide Offers of Consulting Services

The University of Texas at Tyler

In accordance with the provisions of *Texas Government Code*, Chapter 2254, The University of Texas at Tyler (University) is currently soliciting proposals in response to the Invitation for Offers for Selection of a Consultant to Provide Consulting Services related to Market Research for News and Information, IFO No.750-09/10-02, from qualified consultants to provide consulting services related to the development and delivery of a Communications Plan.

University is seeking to contract with a consultant to provide services University requires for Market Research (Consulting Services).

The University's President made a finding of fact that the Consulting Services are necessary. While University has a substantial need for the Consulting Services, University does not currently have staff with expertise or experience with the Consulting Services and University cannot obtain such Consulting Services through a contract with another state governmental entity.

University will:

(a) select the consultant based on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the Consulting Services; and

(b) if other considerations are equal, give preference to a consultant whose principal place of business is in the state or who will manage the consulting contract wholly from an office in the state.

To obtain a copy of the Invitation for Offers for the Consulting Services identified in this Notice contact:

Sherre Holmes, CTPM

The University of Texas at Tyler

Office of Financial Services

3900 University Blvd, ADM 123

Tyler, Texas 75799

Phone: (903) 565-5802

Fax: (903) 565-5509

Email: sherre_holmes@uttyler.edu

Offers must be received by University no later than November 11, 2009.

TRD-200904482

Francie A. Frederick
General Counsel to the Board of Regents
The University of Texas System
Filed: October 6, 2009



How to Use the Texas Register

Information Available: The 14 sections of the *Texas Register* represent various facets of state government. Documents contained within them include:

Governor - Appointments, executive orders, and proclamations.

Attorney General - summaries of requests for opinions, opinions, and open records decisions.

Secretary of State - opinions based on the election laws.

Texas Ethics Commission - summaries of requests for opinions and opinions.

Emergency Rules - sections adopted by state agencies on an emergency basis.

Proposed Rules - sections proposed for adoption.

Withdrawn Rules - sections withdrawn by state agencies from consideration for adoption, or automatically withdrawn by the Texas Register six months after the proposal publication date.

Adopted Rules - sections adopted following public comment period.

Texas Department of Insurance Exempt Filings - notices of actions taken by the Texas Department of Insurance pursuant to Chapter 5, Subchapter L of the Insurance Code.

Texas Department of Banking - opinions and exempt rules filed by the Texas Department of Banking.

Tables and Graphics - graphic material from the proposed, emergency and adopted sections.

Transferred Rules - notice that the Legislature has transferred rules within the *Texas Administrative Code* from one state agency to another, or directed the Secretary of State to remove the rules of an abolished agency.

In Addition - miscellaneous information required to be published by statute or provided as a public service.

Review of Agency Rules - notices of state agency rules review.

Specific explanation on the contents of each section can be found on the beginning page of the section. The division also publishes cumulative quarterly and annual indexes to aid in researching material published.

How to Cite: Material published in the *Texas Register* is referenced by citing the volume in which the document appears, the words "TexReg" and the beginning page number on which that document was published. For example, a document published on page 2402 of Volume 33 (2008) is cited as follows: 33 TexReg 2402.

In order that readers may cite material more easily, page numbers are now written as citations. Example: on page 2 in the lower-left hand corner of the page, would be written "33 TexReg 2 issue date," while on the opposite page, page 3, in the lower right-hand corner, would be written "issue date 33 TexReg 3."

How to Research: The public is invited to research rules and information of interest between 8 a.m. and 5 p.m. weekdays at the *Texas Register* office, Room 245, James Earl Rudder Building, 1019 Brazos, Austin. Material can be found using *Texas Register* indexes, the *Texas Administrative Code*, section numbers, or TRD number.

Both the *Texas Register* and the *Texas Administrative Code* are available online through the Internet. The address is: <http://www.sos.state.tx.us>. The *Register* is available in an .html version as well as a .pdf (portable document format) version

through the Internet. For website subscription information, call the Texas Register at (512) 463-5561.

Texas Administrative Code

The *Texas Administrative Code (TAC)* is the compilation of all final state agency rules published in the *Texas Register*. Following its effective date, a rule is entered into the *Texas Administrative Code*. Emergency rules, which may be adopted by an agency on an interim basis, are not codified within the *TAC*.

The *TAC* volumes are arranged into Titles and Parts (using Arabic numerals). The Titles are broad subject categories into which the agencies are grouped as a matter of convenience. Each Part represents an individual state agency.

The complete TAC is available through the Secretary of State's website at <http://www.sos.state.tx.us/tac>. The following companies also provide complete copies of the TAC: Lexis-Nexis (800-356-6548), and West Publishing Company (800-328-9352).

The Titles of the *TAC*, and their respective Title numbers are:

1. Administration
4. Agriculture
7. Banking and Securities
10. Community Development
13. Cultural Resources
16. Economic Regulation
19. Education
22. Examining Boards
25. Health Services
28. Insurance
30. Environmental Quality
31. Natural Resources and Conservation
34. Public Finance
37. Public Safety and Corrections
40. Social Services and Assistance
43. Transportation

How to Cite: Under the *TAC* scheme, each section is designated by a *TAC* number. For example in the citation 1 TAC §27.15: 1 indicates the title under which the agency appears in the *Texas Administrative Code*; *TAC* stands for the *Texas Administrative Code*; §27.15 is the section number of the rule (27 indicates that the section is under Chapter 27 of Title 1; 15 represents the individual section within the chapter).

How to update: To find out if a rule has changed since the publication of the current supplement to the *Texas Administrative Code*, please look at the *Table of TAC Titles Affected*. The table is published cumulatively in the blue-cover quarterly indexes to the *Texas Register*. If a rule has changed during the time period covered by the table, the rule's *TAC* number will be printed with one or more *Texas Register* page numbers, as shown in the following example.

TITLE 40. SOCIAL SERVICES AND ASSISTANCE

Part I. Texas Department of Human Services

40 TAC §3.704.....950, 1820

The *Table of TAC Titles Affected* is cumulative for each volume of the *Texas Register* (calendar year).